

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

* * * * *

* Docket No. 2282CR00117

BEFORE THE HONORABLE BEVERLY CANNONE
MONDAY, JUNE 17, 2024
TESTIMONY OF JOSEPH PAUL, CONTINUED

APPEARANCES:

For the Commonwealth:

BY: ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.

Dedham, Massachusetts
Room 25

Christine D. Blankenship, CVR
Court Reporter/Transcriber

**With Sidebar*

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Joseph Paul				
(By Mr. Lally)	5		107, 128	
(By Mr. Jackson)		14		128

Exhibits:

None.

1 (Court in session.)

2 (Defendant is present with counsel.)

3 THE COURT: So, Counsel, I'll see you at sidebar,
4 please.

5 THE CLERK: 22117, Commonwealth versus Karen Read.
6 (Sidebar commences:

7 THE COURT: Good morning.

8 MR. LALLY: Good morning.

9 MR. YANETTI: Good morning.

10 MR. JACKSON: Good morning.

11 THE COURT: Good morning.

12 THE COURT: So after the voir dire, so Mr. Lally,
13 I'm not going to let you show the witness the video and
14 ask any questions about whether there was enough force
15 to cause the damage to the taillight.

16 MR. LALLY: Okay.

17 THE COURT: Not now, not through this witness,
18 it's going to be cross-examination of other witnesses
19 or maybe even rebuttal. Okay. And also, I'm not sure
20 they need expert testimony to argue it, but we can deal
21 with that. So you can talk about bumpers in general,
22 which you started to do something about that. And you
23 can talk in general terms about what happens when cars
24 collide. Okay.

25 MR. JACKSON: Thank you, Your Honor.

1 THE COURT: Anything else?

2 MR. JACKSON: No, Your Honor.

3 THE COURT: Okay. All right. All set?

4 MR. LALLY: Absolutely.

5 THE COURT: All right. So we can bring the jurors
6 in.

7 (Jury in.)

8 THE COURT: Good morning, again, counsel and Ms.
9 Read. Good morning, jurors. I hope you all enjoyed
10 this gorgeous weekend. I have those three questions to
11 ask you. Were you all able to follow the instructions
12 and refrain from discussing this case with anyone since
13 we left here on Friday?

14 Everyone said yes and nodded affirmatively.

15 Were you also able to follow the instructions and
16 refrain from doing any independent research or
17 investigation into this case?

18 Everyone said yes or nodded affirmatively.

19 Didn't anyone happen to see, hear, or read
20 anything about this case since we left here on Friday?

21 Everyone said no or shook their head.

22 Thank you very much.

23 Can we please have Trooper Paul?

24 JOSEPH PAUL, sworn

25 THE COURT: Good morning, Trooper.

1 THE COURT: All right. Mr. Lally, whenever you're
2 ready.

3 MR. LALLY: Thank you, Your Honor.

4 **DIRECT EXAMINATION**

5 **BY MR. LALLY, continued:**

6 Q Good morning, sir.

7 A Good morning.

8 Q If you could just again please state your name and
9 spell your last name for the jury?

10 A Yes. It's Trooper Joe Paul. That's P-A-U-L.

11 Q And, sir, if I could just take you back to a
12 couple of different portions of your testimony from
13 Friday.

14 With respect to the acceleration and breaking
15 tests that you conducted in the driveway area outside
16 of Canton Police Department, was that before or after
17 Ms. Hartnett from crime scene services section had
18 processed the vehicle?

19 A After.

20 Q And so far as anything that was removed by her,
21 that was done prior to you conducting any of your
22 tests; is that correct?

23 A Correct.

24 Q Now, you've investigated approximately 191 crashes
25 over your time with the CARS unit with the state

1 police, correct?

2 A Correct.

3 Q Now I'm going to ask you just some general
4 questions with regard to a number of those crashes have
5 involved motor vehicles, collisions without motor
6 vehicles, correct?

7 A Yes.

8 Q Now in general terms with respect to motor vehicle
9 collision, what, if any, you talked a little bit last
10 week about sort of an area of impact and a point of
11 impact, correct?

12 A Correct.

13 Q Now, that's with regard to the roadway; is that
14 correct?

15 A Yes, it is.

16 Q So with regard to the vehicles coming in contact
17 with each other, what, if anything, regarding damage
18 would you expect or anticipate based on your experience
19 in general terms with when vehicles come in contact or
20 touch each other in a collision sequence?

21 MR. JACKSON: Objection.

22 THE COURT: No, I'm going to allow it. In general
23 terms, what do you look for?

24 A So we look -- well, there's two types of damage
25 onto a vehicle. One's contact damage and one's induced

1 damage. So when we look at vehicles, we're looking for
2 what's called contact damage, and the adduced damage is
3 basically -- let me start from the beginning.

4 So contact damage is the damage that is actually
5 made direct contact with another vehicle. And induced
6 damage is the damage that not big truck contact. So,
7 for example, if you would push in one piece of metal to
8 make contact, the rest of the metal will make a
9 rippling effect to -- that would never cause adduced
10 damage.

11 Q And just again in general terms as far as vehicles
12 coming into contact with each other in a collision
13 sequence, what, if anything, would expect or anticipate
14 based on your experience sort of transfer from one
15 vehicle to the other?

16 A It's possible when you transfer you can have paint
17 transfers that come from one vehicle to another. You
18 got tire rub off that go from one vehicle to another,
19 scratches that would come from one vehicle to another.

20 Q And again, sir, just in general terms when it
21 comes to vehicles interacting with each other in a
22 collision sequence, what, if any, role does the
23 respective heights of those vehicles play in respect to
24 contact damage or adduced damage?

25 A Yeah, it depends on their height and how they

1 relate to each other so it kind of shows, you know, if
2 one's taller, one's smaller, it's going to show where
3 the contact damage would be from one vehicle to another
4 based on their heights.

5 Q So based on respective heights, contact or induced
6 damage could be in a different location from a bigger
7 vehicle to a smaller vehicle, correct?

8 A Correct.

9 Q Now, if I could turn you back to the Techstream
10 analysis that you conducted with respect to the
11 defendant's vehicle.

12 Now, the two events that occurs -- forgive me. On
13 that 1269 miles B, there were two events that occurred
14 within that trigger, within that mileage; is that
15 correct?

16 A Correct.

17 Q And based on your analysis, with respect to the
18 odometer readings and the mileage, where is it -- what
19 is your belief as to where the vehicle was when those
20 two events being a three-point turn and the backup
21 reverse(ph), where did those occur within the travel
22 path of the defendant's vehicle?

23 A So the first one with the three-point turn, in
24 this case it appeared to be possibly onto what is it
25 Cedar Crest which because we know based on testimony

1 that missed the exit to Fairview and had to make a U-
2 turn onto Cedar Crest, and that would make sense to why
3 they occur or were in close proximity to each other.
4 They're within the same odometer mileage and on the
5 same key cycle.

6 Q And so that refers to 24.2 miles per hour for 60
7 semi-odd feet, where would that have occurred
8 geographically from your view of the odometer reading?

9 A It would initially occurred on Fairview.

10 Q Now, sir, based on the totality of your analysis
11 and your investigation in this case, what, if any,
12 conclusions did you come to as to how this collision
13 sequence occurred or how this crash happened?

14 A Yes. Can I show my report for that or do you want
15 me to just kind of the --

16 THE COURT: Are you asking to look at your report?

17 THE WITNESS: Yes.

18 THE COURT: Sure.

19 THE WITNESS: Okay.

20 MR. LALLY: Thank you, Your Honor.

21 A Do you want me to continue?

22 Q If you could, please.

23 A Okay.

24 Q What, if any, conclusions did you come to through
25 the course of your investigation?

1 A So on Saturday, June 29, 2022, at approximately
2 12:45 --

3 THE COURT: So you can look at your report, but
4 you can't read your report.

5 A My conclusions based on they asked me to do.

6 THE COURT: Yeah, also I can't hear you.

7 THE WITNESS: Sorry.

8 THE COURT: So just take your time, read your
9 report, and then answer Mr. Lally's question, and if
10 you need to look at your report, we'll see about that
11 again.

12 THE WITNESS: All right.

13 THE COURT: Ask the question, Mr. Lally.

14 Q Based on the totality of your investigation, what,
15 if any, conclusions did you come to with regard to how
16 this collision occurred?

17 A So this collision occurred on Saturday, January
18 29, 2022, at approximately 1245 hours. A 2021 Lexus
19 LX570 was traveling southbound on Fairview Road -- an
20 area of 34 Fairview Road.

21 MR. JACKSON: Objection, Your Honor. It
22 appears --

23 THE WITNESS: I'm trying to --

24 THE COURT: So you know what, Mr. Lally, break
25 this down. Ask simple questions so that the witness

1 can answer your questions. We don't need a narrative.

2 Q From your investigation, what, if any, conclusions
3 did you come to as to where this collision occurred?

4 A All right. So on the night of Saturday, January
5 29, 2022, at approximately 1245 hours, a 2021 Lexus
6 LX570 --

7 THE COURT REPORTER: Can you slow down, sir?

8 THE COURT: So forget all that part, Trooper.

9 THE WITNESS: Okay. All right.

10 THE COURT: Just answer the question. Where did
11 it occur?

12 A It occurred in the area of 34 Fairview Road.

13 Q And who, if anyone, were the participants in this
14 collision scene?

15 A The operator appeared to be Karen Read and the
16 pedestrian was John O'Keefe.

17 Q And where was the vehicle located in reference to
18 the residence at 34 Fairview Road?

19 A It was located along the southbound travel lane
20 and to the left side of the house as you look at it
21 from the front.

22 Q And as far as the vehicle, what, if any,
23 directionality did it head in, and what, if any,
24 interaction did it have with Mr. O'Keefe?

25 A So the vehicle was traveling in reverse along the

1 southbound travel lane traveling north.

2 Q And how fast was the vehicle traveling and over
3 what distance?

4 A The vehicle traveled up to 24 miles per hour and
5 approximately 62 feet.

6 A And at the time that the vehicle was traveling
7 approximately 24 miles per hour over approximately 62
8 feet, what, if anything, occurred then?

9 A The right rear of the Lexus struck the pedestrian
10 John O'Keefe.

11 Q And because of this collision what, if anything,
12 occurred with regard to Mr. O'Keefe?

13 A Mr. O'Keefe was projected forward and to the left
14 along the front yard of 34 Fairview Road.

15 Q And close collision with Mr. O'Keefe what, if
16 anything, did the defendant's vehicle do?

17 A The Lexus continued traveling in reverse before
18 they left the area.

19 Q Now as far as the vehicle itself from your
20 inspection, what, if any, role did any mechanical
21 aspects of the vehicle play in this collision?

22 A There were no mechanical defects.

23 Q And as far as your analysis of the roadway and
24 other factors related to that what, if any, role did
25 they play in this collision sequence?

1 A There were no roadway or environmental factors
2 that contributed to this collision.

3 Q Now, sir, with respect to your investigation what,
4 if any, opinion did you draw based on your training and
5 experience in regard to this collision and how it
6 occurred?

7 THE WITNESS: May I look at my report real quick
8 just to make sure?

9 THE COURT: Yes.

10 THE WITNESS: Thank you.

11 A All right. So throughout my investigation, this
12 appeared to be a single car collision involving a
13 pedestrian. The vehicle was traveling at an accelerated
14 -- a higher -- higher acceleration when -- sorry. The
15 vehicle accelerated at a high rate of speed before she
16 struck the pedestrian John O'Keefe on the roadway and
17 subsequently left him at the scene.

18 Q And with respect to the backup safety system that
19 you observed in this vehicle and made use of in the
20 course of your visibility analysis, what, if any, do
21 you -- is it your opinion that that played in how this
22 crash occurred?

23 A Based on the visibility analysis. So even if the
24 camera systems were covered in snow, even if the
25 systems were defective any way, and even if the mirrors

1 were blocked, an attentive and a reasonable operator
2 would not traveled in reverse, especially at high rate
3 of speed. They would have cleaned the mirrors off.
4 They would've made the camera systems if they worked or
5 they didn't work. They would've done all this prior to
6 accelerating in reverse.

7 MR. JACKSON: Objection.

8 THE COURT: The objection is sustained.

9 MR. JACKSON: Move to strike that.

10 THE COURT: I'm going to strike that.

11 Q Now, with respect to your observations during the
12 course of the visibility analysis, the exemplar
13 pedestrian that you placed in the right rear of the
14 vehicle, was that exemplar pedestrian visible to you at
15 the time that you conducted that visibility analysis?

16 A Yes, it was.

17 MR. LALLY: Thank you, sir. I have no further
18 questions.

19 THE COURT: Okay. Cross-examination.

20 MR. JACKSON: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 **BY MR. JACKSON:**

23 Q Sir, do you have any -- do you hold any degrees in
24 the scientific discipline of mathematics?

25 A I do not.

1 Q Do you hold any degrees in the scientific
2 discipline of physics?

3 A I do not.

4 Q Do you hold any degrees in the scientific
5 discipline of biomechanics?

6 A No.

7 Q How about in engineering?

8 A No.

9 Q How about in kinematics?

10 A No.

11 Q What's the highest degree that you do hold, sir?

12 A I have an associate's degree.

13 Q In what?

14 A Administration of justice.

15 Q You mentioned kinematics on Friday, do you hold
16 any certificates in the specific area of kinematics?

17 A Yes. It's covered in the basic crash
18 investigation classes.

19 Q Okay. So you took a class in other words, correct?

20 A Multiple classes.

21 Q They introduced the idea of what kinematics is,
22 right?

23 A Correct.

24 Q You testified that about that on Friday?

25 A Yes.

1 Q Define kinematics for the jurors.

2 A It deals with the aspect of motion.

3 Q It's a subfield of what broader field?

4 A Kinematics.

5 Q Kinematics is a subfield of what broader
6 discipline of science?

7 A I'm not sure.

8 Q Being physics, correct?

9 A Yes.

10 Q And it describes how points and objects, systems
11 of objects, how they move and how the rate they move
12 and the rate of their velocity, correct?

13 A It deals with, yeah, it deals with the motions.

14 Q What's that called, the rate of velocity, what's
15 another word for that?

16 A The rate of velocity?

17 Q Correct.

18 A I mean it deals with the motion. It deals with
19 forward and it also deals with speed. It deals with
20 travel and speed. If something's moving, it also has a
21 speed to it.

22 Q Right. The word you're looking for is
23 acceleration, correct?

24 A Sure.

25 Q What role does acceleration play in the field of

1 kinematics? A What role does -- what role does
2 acceleration play in kinematics?

3 Q Correct.

4 A It talks about, like you just said, it talks about
5 the speed and it talks about function.

6 Q Is kinematics also known as the geometry of
7 motion; is that correct?

8 A I have not heard that.

9 Q You've never heard that. What's the difference
10 between constrained and unconstrained motion?

11 A Constrained and unconstrained motion?

12 Q That's what I asked.

13 A Constrained motion. I can't recollect at the
14 moment.

15 Q Constrained motion is a motion on a predetermined
16 path; isn't it?

17 A Yes.

18 Q Unconstrained motion is what?

19 A One that doesn't have a predetermined path.

20 Q Free movement, correct?

21 A Correct.

22 Q Do you remember that for your class?

23 A For the most part. We don't go that in-depth in
24 constrained and unconstrained.

25 Q Constrained and unconstrained. Not restrained.

1 A That's what I said. Sorry. Unconstrained, yes.

2 Q Kinematics uses algebraic formula to model these
3 motions, right, the motions of these points, the
4 systems of points, correct?

5 A Yes.

6 Q And it includes concepts like displacement and
7 speed, velocity, distance, acceleration which we've
8 talked about, correct?

9 A Correct.

10 Q And it looks at how these things, these values,
11 vary over a point in time, a duration in time; is that
12 right?

13 A Yes.

14 Q Do you actually understand the physics behind the
15 study of kinematics?

16 A Yes.

17 Q It's a word you learned in class?

18 A Yes, we had to learn the physics part of it.

19 Q On Friday you said that this incident is a
20 pedestrian strike on the vehicle. You reiterated that
21 again this morning; is that right?

22 A Correct.

23 Q I want to be clear, that is your opinion based on
24 your training and experience, correct?

25 A Yes.

1 Q And on Friday you said you based that fact, and
2 you based that rather opinion on the fact that you
3 noted a half mile an hour decrease in speed and a
4 steering input of less than 10 degrees at some point in
5 that reverse motion, correct?

6 A I said it was consistent. That data point in
7 general was consistent with something that you would
8 see with the data of a pedestrian strike or striking
9 something else. I do go in my report saying I can't say
10 that's definitively where a pedestrian was struck,
11 but --

12 Q I'm sorry. I can barely.

13 A I'm sorry. In my report I do say I can't say that
14 it's definitively where the pedestrian was struck --

15 THE COURT REPORTER: Are you saying --

16 THE WITNESS: Definitely, yes.

17 THE COURT: Okay. So you're going to have to slow
18 down and speak up. Okay.

19 THE WITNESS: All right.

20 Q I just want to make sure I'm hearing you
21 correctly, and I apologize.

22 A Okay.

23 Q You said you cannot say definitively that that
24 resulted in a pedestrian strike.

25 A That that data point within the Techstream data is

1 what I'm talking about.

2 Q Okay.

3 A That specific point, that time frame.

4 Q Because there's a multitude of reasons why when
5 someone is driving in reverse may not slow down by a
6 half a mile an hour, right?

7 A It's when I say it's consistent it's because the
8 other aspects of it is the fact that the accelerator
9 is --

10 Q That --

11 THE COURT: Let him answer. Finish your answer.

12 A So the accelerator it's a consistent -- constant
13 breaks and then it just drops by a half a mile and the
14 steering wheel also abruptly goes to the right. That's
15 what I'm talking about when I say it is consistent with
16 a pedestrian strike. That's something you see. It's
17 not going to be a huge change of speed during this
18 collision.

19 Q You also note that at the time, it had begun to
20 snow, correct?

21 A Yes.

22 Q There would be snow on the lawn, right?

23 A Correct.

24 Q There would be snow on the cars?

25 A Yes.

1 Q Snow on the trees?

2 A Yes.

3 Q Snow on the roadway?

4 A Yes.

5 Q The snow on the roadway could impact how tires
6 move over the roadway, correct?

7 A In a way.

8 Q And obviously, there are a multitude of reasons
9 why somebody might input a 10 degree input on a
10 steering wheel, correct?

11 A Correct. That's why I said I couldn't
12 definitively say it.

13 Q Right. So every time somebody slows down or
14 reverse or forward and introduces a 10 degree input on
15 the steering wheel, doesn't mean they're looking to hit
16 a pedestrian, correct?

17 A Correct.

18 Q You testified that you determined the area of
19 impact by basically following, if I heard your
20 testimony correctly, basically following the debris
21 field from the body from where you believed John
22 O'Keefe's body's final resting place was almost
23 linearly to the furthest further most piece of debris
24 that was found. Did I get that right?

25 A Yes.

1 Q In other words, you established what in your mind
2 or what you were told was his final resting place and
3 what you were told was the debris field, and you
4 indicated that the further most piece of debris would
5 basically be the area, correct?

6 A It's within that line. I didn't say that is the
7 area of impact where the further the most piece of
8 evidence is.

9 Q All right.

10 A It's just the linear. Like you said earlier, it's
11 that linear. We're going that path. That's the path
12 that he traveled post-impact with the vehicle.

13 Q And that is on which that fact that you stated is
14 on which what you -- that's a terrible question.

15 That's the basis for your opinion of where the
16 area of impact was, correct?

17 A Yes.

18 Q Let's take a look at exhibit -- with the Court's
19 permission 587. It's your diagram three.

20 MR. JACKSON: If I may approach, Your Honor, just
21 for ...

22 THE COURT: Okay.

23 MR. JACKSON: May I approach?

24 THE COURT: Yes.

25 MR. JACKSON: Your Honor, may we publish Exhibit

1 587?

2 THE COURT: Yes.

3 Q Okay. Okay. Sir, you see diagram three on the
4 board. You also have it in front of you, correct?

5 A Yes.

6 Q If it's easier for you to refer to what's in front
7 of you because that's a little bit further away, let me
8 know?

9 A Okay.

10 Q The red arrows adjacent to the blue writing where
11 I'm highlighting right now indicate basically the
12 debris field that you explained to the jurors on
13 Friday, correct?

14 A Yes.

15 Q And then there's a point at an arrow that comes
16 back to a wording and it says, "Pedestrian final rest."
17 Basically right there, correct?

18 A Yes.

19 Q And the debris field ends right in the middle of
20 that spotlight, correct?

21 A Yes.

22 Q All right. So that's the area of impact that you
23 indicated to Mr. Lally you believe occurred because the
24 debris field, the linear portion of that debris field,
25 going from the pedestrian's final rest all the way out

1 to that final in the red arrow that says red plastic B
2 in parentheses, correct?

3 A Yes.

4 MR. JACKSON: Your Honor, can we have Exhibit 492
5 published to the jury, please?

6 THE COURT: Okay.

7 MR. JACKSON: May I approach?

8 THE COURT: Yes.

9 Q While that's coming up, have you ever seen this?

10 A No, I haven't.

11 Q If you could take a look just above the arrow.

12 MR. JACKSON: Your Honor, with the Court's
13 permission may we highlight or magnify the area just
14 above the arrow?

15 THE COURT: Okay.

16 Q Do you see that?

17 A Yes, I do.

18 Q Right underneath a fire hydrant, correct?

19 A Correct.

20 Q What does that look like to you?

21 A A piece of plastic.

22 Q It's the debris, correct?

23 A Correct.

24 MR. JACKSON: All right. I'm going to go back,
25 with the Court's permission, to Exhibit 587.

1 THE COURT: Okay.

2 Q Do you see the fire hydrant?

3 A Yes.

4 Q The fire hydrant's right there, correct?

5 A Correct.

6 Q That's another, according to your scale, that's
7 probably 30 feet from the pedestrian's final rest,
8 correct?

9 A Yeah, that's about it.

10 Q That is the furthestmost, in this diagram, the
11 furthestmost piece of debris on the diagram, correct?

12 A Correct.

13 Q So now your testimony changed that this in fact is
14 the area of impact?

15 A No.

16 Q Why not?

17 A Because it was just a piece of debris. I'm talking
18 about the path. You follow the path of the debris
19 field. Debris can move and change.

20 Q But the debris doesn't slide backward, does it?

21 A I'm saying you pointed to, like, justify a hydrant
22 as the area of impact where the debris -- where that
23 one piece of plastic was saying that's -- the area of
24 impact is right next to the fire hydrant.

25 Q Are you asking me a question?

1 A Yeah. That's what you said, right?

2 Q I'm asking you --

3 A I'm making sure I'm understanding what you're
4 saying so I can answer the question.

5 THE COURT: Asked the question again, Mr. Jackson.

6 Q In fact, you indicated on Friday that your
7 analysis of the area of impact was predicated on -
8 based on - the further most piece of debris from the
9 pedestrian's body that you were aware of which is right
10 there, red plastic B, right?

11 A I said it's -- when I said earlier with the linear
12 equation. I mean it might've moved it over more, but
13 the debris the start of that debris and when that is, I
14 can't say that's definitively the point of area of
15 impact or the point of impact.

16 Q You can or can't?

17 A I cannot say that is the point of impact right
18 there. You just kind of follow the linear paths because
19 they have to follow in a direct path that way.

20 Q Okay. So now your testimony is, that's not the
21 area of impact?

22 A I never said that was the area of impact. I said
23 it's after that.

24 Q Trooper, we were all here on Friday.

25 A Okay.

1 Q That's exactly what you said on the questioning by
2 Mr. Lally, wasn't it?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 Q Didn't you say on Friday that you determined the
6 area of impact on Mr. O'Keefe, the point of impact, was
7 red plastic B because that was the furthestmost piece of
8 debris you were aware of from the point, the final
9 point of rest, from Mr. O'Keefe's body; isn't that what
10 you said?

11 A I don't believe that's was that my exact words.

12 Q Okay. I'm not asking if it was your exact words.
13 I don't have a transcript of it. I'm asking you is that
14 what you tried to impart to the jurors?

15 A What I said to the jury I said after that. That's
16 the start of -- that's the last point of evidence that
17 I had. I said the area of impact was probably along the
18 roadway after that point. I mean like before it so as
19 you work towards him.

20 Q I'm sorry. I keep doing that because I think
21 you're done. Are you done?

22 A I am done now. Sorry.

23 Q Now you are aware that there's a piece of debris,
24 looks like taillight material, right under the fire
25 hydrant, correct?

1 A Correct.

2 Q If the area of impact, which you indicated on
3 Friday was where this red plastic B is, would be wrong,
4 right? Your analysis would be flawed?

5 A No, because that's not what I said. I said it's
6 along the roadway, and it's going to be after that
7 point.

8 Q Okay. So is the area of impact now where the fire
9 hydrant is?

10 MR. LALLY: Objection.

11 THE COURT: Ask it differently.

12 Q Are you now indicating, because now you realize
13 that there's a piece of debris directly under the fire
14 hydrant, are you now indicating that that's the area of
15 impact where John O'Keefe's body was struck?

16 MR. LALLY: Objection.

17 THE COURT: Sustained.

18 Q Let's take a look at Exhibit --

19 MR. JACKSON: Well, with the Court's permission
20 279.

21 THE COURT: Okay.

22 Q Take a look at Exhibit 279. I'm going to draw
23 your attention to that piece right of plastic; do you
24 see it?

25 A Yes.

1 Q Can you describe it for me? Just physically, what
2 does that look like?

3 A It looks like clear plastic with a little bit of
4 red and black on the top part.

5 Q Right. Maybe in a triangular shape; is that fair?

6 A Correct.

7 Q Now, if you could go back to, with the Court's
8 permission, Exhibit 492.

9 THE COURT: Okay.

10 Q And highlight just with the ruler. How would you
11 describe that piece of material?

12 A It looks like the same piece.

13 Q Does that -- based on that, does that appear to be
14 part of the taillight material that was found at the
15 scene?

16 A Correct.

17 Q Now based on that are you now suggesting, if we
18 could go, with the Court's permission, if we could go
19 back to 587. I'll stop jumping around in just a
20 second.

21 THE COURT: Okay.

22 Q If we could just get back to 587. Oh, sorry.

23 Now, seeing what we've just now seen in terms of
24 that piece of plastic, that appears to be from the
25 taillight, does that appear to be under the fire

1 hydrant, which is highlighted, same piece?

2 A Yes.

3 Q Okay. Based on that, does that change your
4 opinion? Is that now the fire hydrant now point of
5 impact?

6 A No.

7 Q Where is the point of impact now?

8 A It's along the roadway. I don't know the exact
9 point of impact. Can I --

10 Q So you don't know the area of impact?

11 A I said the area of impact is along the roadway
12 after the debris.

13 Q Okay.

14 A I mean the only thing that would change -- just
15 finish. The only thing it would change is maybe it's a
16 little bit further away.

17 Q Okay.

18 A But besides that it's still -- it's a linear
19 field. I'm not talking like one point. You kind of
20 follow the middle of the debris field and that should
21 be the path.

22 Q Well, if the point of impact is along the roadway,
23 where along the roadway, can you show the jurors, where
24 along the roadway in your expert opinion was the point
25 of impact?

1 A It should be within -- if you follow from the
2 pedestrian's final rest here, just kind of follow back.
3 That would be -- that's what I'm talking about linear
4 field. I can't --

5 Q So now you've indicated an area, I'm following
6 your equation, to an area along here, correct?

7 A Yes, somewhere in there.

8 Q All right. If I have my spotlight, is that -- if I
9 meet it right there, is that about where the middle of
10 the spotlight right where you believe the area of
11 impact is?

12 A It's within I guess you could say it was within
13 that area. I don't know definitively it's not on the
14 roadway that has a definitive point that says this is
15 the area of impact right here. It's within -- it's
16 within the roadway based on the evidence at the scene.

17 Q Okay. Mr. Paul -- sorry. Trooper Paul, I'm asking
18 you based on your expert opinion and your conclusions,
19 based on your full analysis, can you point me to within
20 that area of 5 feet or so on the roadway where you
21 believe the area of impact is? Isn't my spotlight
22 basically highlighting the area that you believe in
23 your opinion was the area of impact?

24 THE COURT: Do you have that laser pointer?

25 THE WITNESS: I do.

1 THE COURT: Why don't we let him show you. It
2 would be easier for the jury to see.

3 A So what I'm trying to say is so we follow the
4 linear path back around this area.

5 Q Okay. Can you --

6 A Sorry. I'm trying to keep it straight as much as
7 I can. Follow back to here. I can't say, like, if this
8 it definitively is, but it's possibly based on also a
9 vehicle damage to the back of the vehicle. So if you
10 follow back to here, that could be a possible area of
11 impact.

12 Q All right. So when you say that area there, I just
13 want to be very clear for the record, that what you
14 highlighted is an area basically just to the left of an
15 X that's on the roadway on the bottom of diagram three,
16 toward the lower part of diagram three, correct?

17 A It's -- you would use your circle and this kind of
18 would be a good area around.

19 THE COURT REPORTER: I'm sorry. You need to --

20 A You can use a circle around here. This would be
21 around the area.

22 Q Okay.

23 A Yeah.

24 Q So using your scale, that scale is going from full
25 left to full right, it's plus or minus 20 feet, right?

1 A So which -- can't see it. So say it again. Say
2 the question.

3 Q That scale is 40 feet from full left, full right,
4 20 feet.

5 A It's 40 feet. It's a 10 foot scale.

6 Q Okay. Sorry. Twenty feet. My mistake.

7 A Okay.

8 Q My eyes are terrible 20 feet. Thank you. All
9 right. So if you used that scale, can you estimate for
10 the jurors I'm just going to use this X as a starting
11 point, can you estimate for the jurors from this text
12 that I've highlighted to the pedestrian's final rest,
13 what's that number? It doesn't have to be exact. Give
14 me an estimate.

15 A So I mean, it can be within 30 feet because I'll
16 tell you there's also on my scale there's two and three
17 is fifty feet from each other.

18 THE COURT: Is how much?

19 THE WITNESS: Fifty.

20 THE COURT: Okay. Five-zero.

21 THE WITNESS: Five-zero.

22 Q So would you agree that from this X down here to
23 the pedestrian's final rest as the crow flies, that's
24 probably a good 35, 40 feet?

25 A I mean, I could try to use the scale. We'd need

1 the scale.

2 Q If you wouldn't mind. Do you need a piece of
3 paper?

4 A Yes, please.

5 MR. JACKSON: With the Court's permission.

6 THE COURT: Okay.

7 MR. JACKSON: Just a blank piece of paper.

8 THE WITNESS: Thank you.

9 Q Do you need a pen?

10 A I got one. Thank you. It's approximately 30
11 feet.

12 Q It was 30 feet?

13 A Yes.

14 Q Can you place, with the Court's permission, can
15 you estimate 30 feet in here.

16 A Can I estimate --

17 Q Can you point to a place in the courtroom that
18 looks like 30 feet from me?

19 MR. LALLY: Objection.

20 THE COURT: No. Next question.

21 MR. JACKSON: Does the Court have a diagram of
22 distances?

23 THE COURT: In this courtroom, no.

24 Q You indicated just now -- I'm finished with this.
25 Thank you. Thanks.

1 You indicated just now in answer to Mr. Lally's
2 last couple of questions that in your expert opinion
3 when the SUV struck the pedestrian John O'Keefe, he
4 was, quote, projected forward and to the left to the
5 front yard to his final place of rest?

6 A Yes.

7 Q So your expert testimony is that John O'Keefe was
8 hit with the SUV and flew 30 feet?

9 A Projected mean like he -- I didn't say he flew all
10 the way there. He was projected and that way he got
11 pushed forward in that direction.

12 Q Which if he was rendered incapacitated, landed
13 there, that's sort of fly there, right? He didn't walk
14 there.

15 A I mean what's your definition -- you're flying,
16 like, literally off the ground the whole entire time
17 or --

18 Q Well, you tell me. You're the expert.

19 A I mean he got -- and when we say projected, we
20 mean he gets projected and they usually have a landing
21 face, and they land and they either roll or tumble to
22 final rest.

23 Q Okay. How far do you think he landed? How far was
24 it until he landed of that 30 feet?

25 A I don't know. There's no indication of where his

1 exact landing spot was.

2 Q Is there any evidence whatsoever that he landed
3 and rolled?

4 A There was no evidence that he landed or rolled.

5 Q According to you the evidence that you had in
6 front of you was that he got hit, fly 30 feet, landed
7 where he ended up in his final rest, right?

8 MR. LALLY: Objection.

9 THE COURT: Sustained. Ask it differently.

10 Q Based on your expert opinion, you believe that he
11 was projected through the air to his final rest place?

12 A That's not what I was saying.

13 Q But you said there's no evidence that he rolled?

14 A There's no evidence that he flew through the air,
15 either.

16 Q Exactly. Right? Exactly.

17 MR. LALLY: Objection.

18 THE COURT: Sustained.

19 Q You said on Friday that in your experience people
20 tend to lose objects that are not strapped to them; is
21 that right?

22 A Yes.

23 Q In other words, you get hit by something, car,
24 truck, bus, whatever, a train, and if you have
25 something in your hand, you lose it, you drop it if

1 it's not strapped to you, correct?

2 A Correct.

3 Q How do you suppose that Mr. O'Keefe, in your
4 opinion, held onto that glass cup that was found out
5 next to him over the course of 30 feet being projected?

6 MR. LALLY: Objection.

7 THE COURT: I'll allow it. Do you have a theory on
8 that?

9 A I don't know. I mean, it just could have been with
10 him the whole way. I don't -- I don't have a -- I don't
11 know. I wasn't there, so I don't how the glass stayed
12 with his body and went with him to the final rest.

13 Q So it's common sense, you have to believe it was
14 in his hand, and he held onto it the entire time he was
15 being projected, correct?

16 A It's possible it could have been in his hand. It
17 could've been tucked next to his clothing.

18 Q Did you say tucked into --

19 A I mean, like, it could have been next to his body.
20 So when he projected, the glass was with his body as is
21 it was also flying, so there's a number of reasons why
22 the glass because it also got projected with the body
23 why he was holding it.

24 Q I thought you said on Friday, and you just agreed
25 with me, that people drop things when they're hit.

1 A Yes, but I think not everything it tends to fly
2 off. I mean, some stuff flies off. Some stuff will stay
3 on. It's --

4 Q I see.

5 A It's not uncommon to find piece of clothing and
6 different stuff, you know, like you find at the scene.

7 Q Piece of clothing?

8 A Like clothing like shoes I mean. Like shoes and
9 stuff like that to come off the body during a
10 pedestrian crash.

11 Q Well, that's not what I asked.

12 A I know. I'm just saying you asked me -- you said
13 why this -- I'm just responding to what you said. I'm
14 trying to make sure you understand what I'm saying.

15 Q No, I don't, but I'll ask another question. The
16 shoes are strapped on by definition, right?

17 A Yes, but it's very common for shoes to come off.

18 Q How about a cell phone?

19 A Cell phone, it all depends. It all depends where
20 it is.

21 Q It was under his body.

22 A Okay.

23 Q How do you account for that? You hold onto your
24 cell phone in one hand and you onto your cup with the
25 other?

1 MR. LALLY: Objection.

2 THE COURT: Sustained. Ask it differently.

3 Q His cell phone was found under his torso, under
4 his body. What's your theory of how that cell phone
5 ended up flying 30 feet with him?

6 A It just did.

7 Q It just did. And somehow as he landed, he tucked
8 that cell phone underneath his body so he landed on top
9 of it?

10 A It just did. That's the evidence at the scene. I
11 can't -- I didn't put the evidence there, so.

12 Q Well you didn't.

13 MR. LALLY: Objection.

14 THE COURT: All right. So, jurors, I've told you
15 before, lawyers cannot make comments. So disregard it.
16 Mr. Jackson, don't do it again.

17 MR. JACKSON: I understand, Your Honor.

18 THE COURT: You understand, but don't do it. Your
19 answer is always, "I understand." Don't do it.

20 MR. JACKSON: Yes, Your Honor.

21 Q Cell phone in one hand, cup in the other hand,
22 flew through the air, right?

23 MR. LALLY: Objection.

24 THE COURT: Sustained.

25 Q You were informed of this incident on January 29,

1 2022, at about 2:30 in the afternoon; is that right?

2 A Yes.

3 Q At the time you were working out of the CARS
4 facility which is located on West Grove Street in
5 Middleborough; is that right?

6 A Yes.

7 Q By the way, that's a facility that has multiple
8 garages, sallyports I don't know if they're called
9 sallyports, but garage bays, correct?

10 A The mechanic shop is -- are there.

11 Q The mechanic shop?

12 A Yes.

13 Q Is if you're going to review, for instance for
14 purposes of a reconstruction, if you're going to review
15 a vehicle, is the vehicle placed in those mechanic's
16 bays?

17 A No, not there. That's for state police vehicles.

18 Q Okay. So where are the mechanic's bays -- sorry.
19 Reverse that.

20 Where are the sallyports where you do your
21 analysis, your reconstruction, your review of the
22 vehicle, inspections, things of that nature?

23 A We don't have sallyports for that.

24 Q You don't have anything dedicated to that?

25 A No, the only time we would use a sallyport is the

1 crime scene would have some sallyports that they would
2 do the document their crime stuff, and I've gone there
3 to do my inspections, but most of our inspections are
4 done either at the tow yard or some type of facility
5 for that.

6 Q Ultimately was this SUV ever taken to the
7 Middleborough facility?

8 A Yes, it was.

9 Q Where was it placed?

10 A There's like a fenced in area inside a -- it's a
11 fenced in area.

12 Q Is it outside or inside?

13 A Outside.

14 Q Okay. Did it remain outside in that fenced in area
15 the whole time?

16 A I don't know the exact time. It was there for a
17 while, then it got moved.

18 Q Where did it get moved to?

19 A I'm not sure where exactly they moved immediately
20 after it left Middleborough.

21 Q Are you familiar with the Foxborough location?

22 A Yes.

23 Q Does that have sallyports or bays for inspection
24 and evaluation?

25 A It has garages in it, but we wouldn't use them --

1 we don't normally use those garages for inspections.

2 Q Is it possible to use those garages for
3 inspections?

4 A It is possible.

5 Q Okay. It's happened before, correct?

6 A I've not used those inspection in the garages.

7 Q But it's --

8 THE COURT: I'm going to ask you to keep your
9 voice up and speak slowly.

10 THE WITNESS: Sorry, yes.

11 Q But you know it could be used --

12 A Sorry.

13 Q Sorry. You know that those bays could be used for
14 inspections or analysis or evaluation if needed,
15 correct?

16 A Yes.

17 Q All right. Given the fact that the SUV that was
18 being seized on January 29, was being used as potential
19 evidence, best practices would suggest that you want to
20 get it in and out of the bad weather, the inclement
21 weather as quickly as possible, correct, you wouldn't
22 want to subject it to continued forces from nature like
23 rain, wind, snow, sleet, hail, right?

24 A That would be beneficial, yes.

25 Q All right. You're aware that Foxborough -- the

1 Foxborough location and the Middleborough location with
2 the mechanic's bays are closer to Dighton than Canton,
3 right?

4 A Both Foxborough and --

5 Q Foxborough and Middleborough are both closer to
6 Dighton than Canton. In other words, you have to pass
7 by, depending on which way you go, pass by
8 Middleborough or pass by Foxboro to get to Canton.

9 A So from where?

10 Q From Dighton, sorry.

11 A So, sorry, from Dighton?

12 Q Where the vehicle was seized?

13 A Yep.

14 Q All I'm -- I'm going toward Canton. You pass by
15 either Middleborough or Foxborough to get to Canton,
16 correct?

17 A I don't believe you pass by Middleborough to get
18 to Canton, but you pass by Foxborough.

19 Q All right. The car was not taken to Foxboro, was
20 it?

21 A No.

22 Q As a matter of fact, the car was taken basically
23 double the distance all the way to Canton to that
24 sallyport, correct?

25 MR. LALLY: Objection.

1 THE COURT: Do you know that? Is that double the
2 distance?

3 A I don't know the exact distance. I just -- I knew
4 it was in Canton.

5 Q And you know it's further to Canton?

6 A From Dighton, yes.

7 Q Right. And you also are aware that because you've
8 been to the scene assuming, correct, you've been to 34
9 Fairview?

10 A Yes, I have.

11 Q And you've been to Canton PD?

12 A Yes, I have.

13 Q You know that those two locations are about three
14 or four minutes apart?

15 A Yeah, I would say that.

16 Q When you started your -- let me ask you this maybe
17 in a different way.

18 Before you began any review on this case, any
19 physical review on this case, your analysis on the
20 case, you were told that there had been a crash,
21 correct?

22 A Yes.

23 Q You testified that -- to that at the state court
24 grand jury in this matter, is that right, that you had
25 been told in advance this was a vehicle pedestrian

1 crash, and you were asked to analyze it, right?

2 A Yes.

3 Q You wrote in your report that it was a single
4 vehicle collision involving a pedestrian, and you were,
5 quote, assigned to reconstruct that collision, correct?

6 A Yes.

7 Q So when you began your analysis, Trooper Paul, you
8 were told conclusively by the lead investigator Michael
9 Proctor that the deceased was hit by a car and your job
10 to was -- your job was to reconstruct it; is that
11 right?

12 MR. LALLY: Objection.

13 THE COURT: Okay. So there are lots of parts to
14 that. Break it down.

15 MR. LALLY: Sure.

16 Q Were you told by Michael Proctor to reconstruct
17 this incident?

18 MR. LALLY: Objection.

19 THE COURT: Were you told that by Trooper Proctor?

20 THE WITNESS: I was not.

21 THE COURT: Okay. Next question.

22 MR. JACKSON: Sure.

23 Q Who were you told -- who were you given your
24 instructions by?

25 A Instructions for what?

1 Q To reconstruct this incident.

2 A I wasn't given instructions to reconstruct. It
3 was just I was assigned to it. I was requested -- my
4 assistance was requested to reconstruct it.

5 Q That's my question. Who was the one who assigned
6 you to it? A I talked to my sergeant at the time he
7 gave me the phone call.

8 Q And you were told some basics about that that
9 reconstruction, that the event that you were asked to
10 reconstruct, correct?

11 A Yes.

12 Q The information that you were told came from the
13 case officer; is that right?

14 A What's to do with the case officer?

15 Q The information that this was a pedestrian/vehicle
16 incident, as opposed to motor vehicle/motor vehicle
17 incident, pedestrian/bicycle, motor vehicle/motorcycle,
18 you were told it was a motor vehicle pedestrian
19 incident that you were asked to reconstruct, correct?

20 A Yeah, I was told that, yes.

21 Q All right. And you had to be given some basic
22 parameters of what that incident -- how that incident
23 occurred? The car was going in reverse. It's got a
24 damaged tail light, things like that?

25 A Some basic stuff, yeah.

1 Q What I'm asking is, what I'm trying to get to is
2 who gave you that information, where did it come from?

3 A That the car was traveling in -- like which part
4 of the information? You asked me several different
5 things just now.

6 Q Were you given information from multiple sources
7 or did someone give you a summary of what you were
8 being asked to do? At the very beginning --

9 A Yep.

10 Q -- who gave you the summary?

11 A The summary of the whole entire? Of what?

12 Q Of the event that you were asked to reconstruct.

13 A I was passed down when I got to the garage that --
14 there was nobody that said -- that gave me the summary
15 that I can remember. I was told that it was a
16 pedestrian crash, and he was a Boston police officer
17 involved, that this was a vehicle, and that it was
18 traveling in reverse. That's all I had.

19 Q Okay. What I'm asking is that's great. Thank you
20 for the summary. Who gave you that summary?

21 A I don't know if it's definitively anybody from the
22 get-go that I -- that was like I talked to.

23 Q From where?

24 A I don't know if it was anybody that I could
25 definitively say that was the person. There was

1 multiple people going around when I got there. I think
2 I talked to Trooper Zach Clark. He was doing the crime
3 scene --

4 THE COURT REPORTER: Who?

5 THE WITNESS: Zach Clark.

6 A He was the crime scene photos at the time. I knew
7 him from past crashes. And he just said this is the
8 vehicle and he kind of gave me a little bit of a
9 lowdown on what the vehicle was.

10 Q Okay.

11 A So.

12 Q My question is this, when you got that did you
13 call it a lowdown? He gave you the lowdown?

14 A He gave me information, yes.

15 Q Right. When you got the lowdown, you were told
16 Boston police officer was involved. It's a
17 vehicle/pedestrian incident. Car was going in reverse.
18 Ultimately led to the death of a pedestrian, struck a
19 pedestrian in reverse, correct?

20 A Correct.

21 Q All right. And you were assigned specifically to
22 try to reconstruct that incident?

23 A Yes.

24 Q Have you heard of the phrase confirmation bias?

25 A I know the phrase, yes.

1 Q Do you know what it means?

2 A I can't definitively say what it means.

3 Q Developing a conclusion and then trying to find
4 evidence to fit that conclusion. Does that sound
5 right?

6 A If you say so.

7 Q You noted in your direct examination that there
8 were scratches on the passenger side rear bumper of the
9 Lexus, correct?

10 A Yes.

11 Q How exactly were you able to scientifically
12 determine that any of those scratches were from an
13 incident on January 29, 2022, as opposed to any other
14 time?

15 A I didn't have anything else on the time those
16 scratches happened prior to this collision.

17 Q I'm sorry?

18 A I didn't have any information that those scratches
19 were caused from a prior collision, and so when you try
20 -- when I looked at the evidence, I knew it was in that
21 same area of the right red taillight, so when I looked
22 at it, it didn't quite fit the pedestrian thing. So
23 when you show me the video or I saw the video like a
24 year ago on Court TV, I said that could be --

25 THE COURT: You asked the question, so next. Keep

1 going.

2 MR. JACKSON: I can't --

3 THE COURT: He's answering. Next question. Go
4 ahead.

5 THE WITNESS: Yes, and --

6 THE COURT: Hold on.

7 THE WITNESS: -- thought the scratches were.

8 THE COURT: Hold on. Ask your question, Mr.
9 Jackson.

10 Q Do you know what normal wear and tear on a vehicle
11 is, right?

12 A Yes.

13 Q Bumpers get scratched myriad of ways, correct?

14 A Correct.

15 Q They can get scratched in a grocery store parking
16 lot, right?

17 A Yes.

18 Q Shopping cart can bounce off the back of a car and
19 scratch the bumper or scratch the side of the car,
20 corner panel or something, right?

21 A Sure.

22 Q I don't want to go through it, but there's
23 thousands and thousands and thousands of ways that a
24 car can get scratched, correct?

25 A Correct.

1 Q My question is do you, as you sit here, do you
2 have any scientific evidence that those scratches
3 occurred on January 29, at approximately 12:45 a.m.?

4 A What do you mean by scientific evidence?

5 Q Well, do you have any evidence whatsoever that you
6 can point to that those scratches occurred on that date
7 and at that time rather than any other time in the
8 history of that vehicle?

9 A Like I said earlier, the video seems to appear
10 that's what it looks like that could have been from.

11 Q Well you said on Friday -- let's talk about those
12 scratches for a second.

13 A Okay.

14 Q You testified Friday, you were pretty clear, you
15 said that -- see if I can find it exactly.

16 MR. JACKSON: If I may have just a moment, Your
17 Honor?

18 THE COURT: Sure.

19 Q You said, quote, the dent and scratches for his
20 hand could be those are consistent with striking the
21 Lexus. Do you remember saying that?

22 A Yes, on the tailgate.

23 Q Okay. So the dent and scratches we talked about on
24 Friday you said were from his hand?

25 A Yes, hand and the glass cup.

1 Q Okay. Then are those the same scratches you're
2 talking about in terms of the bumper?

3 A No.

4 Q So --

5 A Are you talking about the scratch inside the
6 bumper that we've been talking about?

7 Q Correct.

8 A No.

9 Q Is there any way to scientifically date a scratch?

10 A No.

11 Q If you go out in the parking lot right now, even
12 as an accident reconstructionist if you walk out into
13 the parking lot right now and you look at a Toyota
14 Camry sitting there, it's got a scratch on it. There's
15 no analysis that you can engage in to date that
16 scratch, could you?

17 MR. LALLY: Objection.

18 THE COURT: So you can ask it differently, Mr.
19 Jackson.

20 Q Is there a way that you can -- in general look at
21 a scratch and say that scratch is from such and such
22 date?

23 MR. LALLY: Objection.

24 THE COURT: I'll allow it.

25 Q Nothing more.

1 THE COURT: I'll allow it.

2 A You cannot say -- you can look at evidence and it
3 shows that it may have been older than what the newer
4 evidence would be, but there's no way to say that
5 specific date and time and that a scratch would have
6 came from.

7 Q Right. But it's possible that any or all of those
8 scratches on the Lexus could have predated January 29,
9 correct?

10 A No.

11 Q That's not possible?

12 A The ones that are on from the taillight and the
13 other parts of it?

14 Q There's scratches anywhere on the car.

15 A It depends on what you got to pick the other
16 scratches. You got to show me the other scratches on
17 the car.

18 Q I'm saying, it's possible since you can't date a
19 scratch, it's possible that any or all of those
20 scratches could predate January 29, it's simple, right?
21 It's possible?

22 A You're being pretty broad on your scratches here.

23 Q I'm not being broad. Let me ask it a different
24 way. Let me ask it again.

25 Is it possible that any or all of the scratches

1 noted on that car predate January 29?

2 A Any and all of the scratches? See that's where
3 I'm saying you're being pretty broad. Any and all
4 scratches on the car.

5 Q Can you answer that question?

6 A That predate.

7 MR. LALLY: Objection.

8 A I don't know every single scratch on that car. I
9 couldn't --

10 THE COURT: Overruled. So can you answer that
11 question?

12 THE WITNESS: No.

13 Q You testified that you noted glass on the rear
14 bumper of the SUV, correct?

15 A Yes.

16 Q And you said something about that glass being --
17 coming from the cup?

18 A Correct.

19 Q You also said that you did not see anything on
20 that SUV that could be the source of those glass pieces
21 on the bumper, right?

22 A Yes.

23 Q When you did your reconstruction and your
24 analysis, were you informed that none of the glass
25 pieces, not one of them, could be matched to a cup?

1 A I don't know anything about the -- I don't know
2 that.

3 Q So if you knew that the glass pieces on the bumper
4 do not match the cup, does that change your opinion?

5 MR. LALLY: Objection.

6 Q About that glass?

7 THE COURT: Can you answer that question?

8 THE WITNESS: I cannot.

9 Q You can't answer the question?

10 A It's what is told to me as evidence.

11 Q Got it. By whom?

12 A By the crime scene.

13 Q Who told you?

14 A There was crime scene that was there that said
15 there's glass in the cup, and my initial inspection,
16 that's what it was on from.

17 Q That's not what you just said. You said that's
18 what was told to me.

19 A Yeah, by crime -- like I said, by crime scene by
20 when I was at my inspection.

21 Q Wait. What?

22 A It was told to me by the crime scene when I was at
23 my inspection, at the initial inspection.

24 Q So what you meant by that was what was told to me
25 is the crime scene talked to you?

1 A Yes.

2 Q The crime scene say anything else?

3 A I don't know what else do you want me to say.

4 Q Did Trooper Proctor tell you that those pieces of
5 glass on the bumper were somehow associated with the
6 cup?

7 A No.

8 Q Just the crime scene told you?

9 A Correct.

10 Q But if you knew that the crime scene was incorrect
11 and in fact those glass pieces don't match the cup,
12 would that change your opinion?

13 MR. LALLY: Objection.

14 THE COURT: Sustained.

15 Q Would it change your opinion in any way if you
16 knew that the glass pieces do not match the cup?

17 MR. LALLY: Objection.

18 THE COURT: I'll allow that. Can you answer that
19 question?

20 THE WITNESS: No.

21 Q I'm sorry? No, you --

22 A I don't -- it's glass from a cup. It's glass.
23 It's not -- it doesn't belong to a vehicle.

24 Q Right.

25 A It's glass.

1 Q But if I told you it didn't match that cup, would
2 it change your opinion?

3 MR. LALLY: Objection.

4 THE COURT: Does that change your opinion?

5 THE WITNESS: Are you talking -- which cup are me
6 -- let me establish which cup we're talking about.

7 Q How many cups have we been talking about, Trooper?

8 A You said that cup, the one from the scene?

9 Q I'm talking about --

10 A Okay. I just want to make sure you're on the clear
11 path here. We're clear about what we're talking about.

12 Q Absolutely. We really should.

13 A All I said it's --

14 Q The cup that was found next to John O'Keefe's body
15 in the snow at 12 -- at 34 Fairview on January 29,
16 2022, you got the cup in mind?

17 A Yes.

18 Q Okay. That's the cup. When I say cup, that's the
19 cup?

20 A Okay.

21 Q Would it change your opinion if I told you that
22 the glass pieces on the bumper don't match that cup?

23 A What's my opinion on it, I would say it was glass
24 from a cup. That's the only opinion I have. It's glass
25 from a cup that was on a bumper.

1 THE COURT REPORTER: Are you saying "a cup"?

2 THE WITNESS: A cup, a cup.

3 A It's not glass from the car. That's -- that was
4 my opinion on it. I didn't never said it matched to
5 the scene.

6 Q You didn't.

7 A I never said that in my thing. I said it's glass
8 from a cup.

9 Q Okay. It's safe to say you didn't do any testing
10 to determine the forces necessary to shatter a
11 taillight on a 2021 Lexus 570, correct?

12 A I did not do testing.

13 Q Your report indicates, we talked about this a
14 little bit, I'm going to go back to something you
15 talked about earlier this morning.

16 Your report indicates that John O'Keefe came to
17 his final resting place about 7 feet from the roadway,
18 and that's what you base your diagram on, correct?

19 A Yes.

20 Q Who told you that number?

21 A I measured it from a diagram.

22 Q Can you say that again?

23 A I measured it from the diagram.

24 Q Okay. What I'm asking is how did it get on the
25 diagram?

1 A Oh.

2 Q In other words, who told you that his body was 7
3 feet from the roadway?

4 A Well, the way that he -- I was told by Lieutenant,
5 was it, Gallagher, Paul Gallagher, Canton PT(sic). He
6 told me this is where the body was found so I used my
7 devices to mark that location.

8 Q Okay. But before you used your devices, he just
9 pointed someplace on the ground and said he was about
10 here, correct?

11 A That is correct.

12 Q Did Lieutenant Gallagher tell you that Lieutenant
13 Gallagher never saw John O'Keefe in place at the scene?
14 Did he say that?

15 A No.

16 Q Did Lieutenant Gallagher tell you that the first
17 officer on the scene estimated his body at being
18 approximately 15 to 20 feet from the roadway?

19 A No.

20 Q If he had told you that, would that have changed
21 your diagram?

22 MR. LALLY: Objection.

23 THE COURT: Overruled.

24 A I was just -- he told me this is where he was
25 found. I marked that location. That's all that was.

1 Q And you marked basically every other piece of item
2 -- sorry. That was a terrible question.

3 Every other item you marked based on a distance
4 from where you were told John O'Keefe's body came to
5 rest, correct?

6 A Yes.

7 Q Again, that was by Lieutenant Gallagher just
8 pointing at the ground saying he was about here?

9 A Correct.

10 Q Was there a single member of the team that was out
11 when you were being shown where the body came to rest?
12 Was there a single member of that team who actually
13 said they saw John O'Keefe's body in place?

14 MR. LALLY: Objection.

15 THE COURT: I'll allow it.

16 A From? What do you mean team? Canton PD?

17 Q Whoever was there. Who was there with you when you
18 started doing your measurements, et cetera at 34
19 Fairview?

20 A Lieutenant Gallagher.

21 Q Just you and him?

22 A And myself and I was training a trooper at the
23 time. She was there.

24 Q You were training a trooper at the time?

25 A Yes.

1 Q Okay. So my mistake. I assumed that there several
2 people out there. Just you and Lieutenant Gallagher?

3 A Yes, that's why I was used by the team.

4 Q And, again, Lieutenant Gallagher didn't tell you
5 that he never saw John O'Keefe body in place?

6 A No, I don't think so.

7 Q You did document in your report that the items
8 that you noted on your diagram you just looked at a few
9 minutes ago, those what I found by the SERT team,
10 correct?

11 A Yes.

12 Q And you indicated in your report that the members
13 of the SERT team located a single Nike sneaker that's
14 noted on your report; is that right?

15 A Correct.

16 Q On the diagram, right?

17 A Yes.

18 Q You also indicated that, quote, in the same area,
19 two red plastic pieces and one clear piece of plastic
20 of a taillight was discovered?

21 A Yes.

22 Q So your report is clear that in total the items
23 discovered by the SERT team on January 29, were a shoe,
24 right?

25 A Yes.

1 Q A glass, partial glass cup, broken, correct?

2 A I don't if that was on there. I don't remember if
3 that's what's on their diagram or if that's what I was
4 told at the scene, but, yes.

5 Q Sure.

6 A Yes.

7 Q You knew that a cup was found?

8 A Yes.

9 Q Or you were told a cup was found?

10 A Yes.

11 Q And three pieces of plastic, two red, one clear
12 blue?

13 A Yes.

14 Q Not five pieces of plastic, correct?

15 A Correct.

16 Q You didn't measure those items; is that right?

17 A I didn't -- what do you mean measure them? Like
18 at the --

19 Q Measure them relative to John O'Keefe final place
20 of rest - 10 feet from it, 12 feet from it.

21 A Yes, I used their report to place those items onto
22 my diagram.

23 Q So I'm going to get to that question in just a
24 second. I want to make sure that we walk through it
25 sort of methodically.

1 You then use some calculation, some tool, or
2 something to measure distances. Like there's where I
3 presume, assume, John O'Keefe body was or his final
4 rest place, and I used that as point A, and then I'm
5 going to measure from there and go 7 feet to where the
6 shoe was found, or the red plastic -- the first red
7 plastic piece was found or whatever, right?

8 A Yes.

9 Q Who told you where the pieces were found?

10 A They were in Lieutenant Tully's report. He put
11 measurements in his report.

12 Q Okay. And you noted that the shoe was 9 feet?

13 A Yes.

14 Q And you put that in your diagram?

15 A Correct.

16 Q You noted that the glass cup was 1 foot from John
17 O'Keefe's body, correct?

18 A Correct.

19 Q One foot is about that long, right?

20 (Demonstrating.)

21 A Yes, they basically said it was found next to him.

22 Q Right.

23 A Yes.

24 Q A piece of red plastic 7 feet from John O'Keefe
25 body, correct?

1 A Correct.

2 Q A clear plastic piece, 10 feet from John O'Keefe's
3 body, right?

4 A Yes.

5 Q Another red plastic piece 12 feet from John
6 O'Keefe's body, correct?

7 A Correct.

8 Q What part of his body were you measuring from?

9 A Like center mass.

10 Q So he's 6 foot 2?

11 A Yes.

12 Q Did Lieutenant Gallagher tell you where his center
13 mass was?

14 A No, I measured from -- he just said he was here,
15 so I try to put like where his, where are his feet and
16 try to measure the middle between those two.

17 Q So ultimately because Lieutenant Gallagher was not
18 at the scene when he was found, Lieutenant Gallagher
19 had to sort of guess where the body was found, correct?

20 MR. LALLY: Objection.

21 THE COURT: Sustained.

22 Q You got no photographs of John O'Keefe in place,
23 correct?

24 A Correct.

25 Q There were no establishing shots. They were no

1 respective shots, correct?

2 A Correct.

3 Q There were no relative shots, meaning, this is
4 relative to that. I can measure that and figure out
5 distances, correct?

6 A From the picture?

7 Q Yeah, so, you know how that was done in science,
8 right? You want to find out what was the position of
9 something, so you take two or three of four shots, you
10 know that something is never going to move like, I
11 don't know, a flagpole, you can measure it from there.

12 A Sure.

13 Q And you can get cross coordinates, right?

14 A Sure.

15 Q Left to right and the two coordinates match,
16 that's where the eye is, right?

17 A Correct.

18 Q None of that was done, right?

19 A From -- from the pictures?

20 Q None of that was done to do your measurements.

21 A I used -- like I said, I used the measurements
22 from -- I used -- I measured all my diagram in itself
23 and I measured from those points off my diagram.

24 Q Right, Trooper, but the starting point was a
25 guess, wasn't it?

1 MR. LALLY: Objection.

2 THE COURT: Sustained.

3 Q Did you have to sort of guess at where you thought
4 John O'Keefe's body was?

5 A I didn't guess where his body was.

6 Q Did you guess at his center of mass?

7 MR. LALLY: Objection.

8 THE COURT: Did you guess?

9 THE WITNESS: I did not guess.

10 THE COURT: Next question.

11 Q You stated in your report that you Google mapped
12 Ms. Read's path of travel. Well, let me ask you a
13 different question.

14 MR. JACKSON: If I could withdraw that question
15 with the Court's permission.

16 THE COURT: Yes.

17 Q Your diagram has all those arrows pointing at
18 specific locations, very, very specific, very thin
19 arrows that point, correct?

20 A Yes.

21 Q If you start off with an incorrect assumption
22 about where John O'Keefe body was, right,
23 hypothetically, if you were to start off with incorrect
24 assumptions where John O'Keefe's body was, every single
25 piece of every single item that you note on that

1 diagram would then be off as well, wouldn't it?

2 MR. LALLY: Objection.

3 THE COURT: Is that true?

4 THE WITNESS: I mean, I guess hypothetically. It
5 depends on how off you want to be.

6 Q The answer's yes, correct?

7 A Hypothetically.

8 Q You stated in your report that you Google mapped
9 Ms. Read's path of travel on January 29, based on what
10 you determined to be, quote, it's likely the two -- and
11 you said that it's, quote, it's likely that the two
12 events, meaning the triggering events, occurred at the
13 same time the Lexus was at 34 Fairview at the time of
14 the collision, correct?

15 A Yes.

16 Q The first triggering event was what? Was it a
17 three-point turn or a U-turn? I thought I heard you
18 say both.

19 A I guess it would be more a three-point turn
20 essentially I guess it's a three-point turn.

21 Q Okay.

22 A Yes.

23 Q Did you say U-turn on Friday? I could have sworn
24 I heard that.

25 A It could've been a U-turn. I mean, it's still

1 turning around, so he had to make a U-turn, (Ph)three-
2 point turn or not, but it's still.

3 Q Okay. Not to be picky, but it's sort of my job.

4 A Okay.

5 Q A U-turn that's traveling in one direction, it's a
6 turn, right? It's the wheel, never changing a gear,
7 and it's a turn, right?

8 A Mm-hmm.

9 Q A three-point turn requires moving forward,
10 stopping, changing gears, moving backwards, stopping,
11 changing gears, using the steering equipment to move in
12 and out, correct?

13 A Correct.

14 Q So those are two very different maneuvers, right,
15 you would agree?

16 A In a sense, I was trying to say she made a U-turn
17 like you can someone say they made a U-turn, it's a
18 three-point turn. They're still making a U-turn, and I
19 didn't mean it as like she literally had to make a
20 direct U-turn. She was turning around and obviously
21 the diagram or the trigger shows the three-point turn.

22 Q Well, I guess she could have said reversing
23 direction, right?

24 A That could be -- that could have been a better way
25 to say it, yes.

1 Q You didn't say that. You said U-turn. So are you
2 changing your testimony from Friday that it was a
3 three-point turn or could it have possibly had been a
4 U-turn?

5 A It's a three-point turn.

6 Q Okay. Because you have evidence of the starting,
7 stopping, changing gears, the person stopping, changing
8 gears, turning?

9 A That is correct.

10 Q Okay. So when you said U-turn, that was
11 inaccurate?

12 MR. LALLY: Objection, Your Honor.

13 THE COURT: The objection is sustained.

14 Q Let's get back to the path of travel when you
15 began your analysis. How did you know what the Lexus's
16 path of travel was that day?

17 A I got the directions from Trooper Proctor.

18 Q And what did Trooper Proctor tell you tell you in
19 terms of the path of travel, specifically? Starting
20 point and an ending point, did he tell you the exact
21 path of the closest travel?

22 A No, they just -- like that it was just mostly just
23 the addresses.

24 Q Okay . So if you got a two points on a map and
25 Trooper Proctor told you the Lexus traveled from point

1 A to point B, there are multiple ways to get from point
2 A to point B, you would agree with that, right?

3 A Yes.

4 Q You'd pick one of those, right, the path of travel
5 including three freeways, et cetera, right?

6 A Yes.

7 Q But as you sit here, you don't know what her
8 actual path of travel was because it could've been
9 something different, right?

10 A It could've been something that's why I gave a
11 range on my diagram.

12 Q Do you have any scientific evidence to establish
13 what her actual path of travel is or did you just guess
14 at the path of travel?

15 A I got the addresses from Trooper Proctor. I put
16 them into a thing, and one of the possibilities of 36
17 miles -- and that was after looking at all of them,
18 that 36 miles is a possibility.

19 Q Right. Understood. So that's what I'm trying to
20 get to, Trooper Paul.

21 A Okay.

22 Q That's one possibility and it's 36 miles.

23 A Mm-hmm.

24 Q One route of travel, right?

25 A Correct.

1 Q There were no other possibilities, right?

2 A Yes.

3 Q So between an amount, the possibility that she hit
4 and the other possibilities, you just sort of had to
5 guess. I mean, there's no science. You just said I'm
6 going to pick that one and put it on hold, right?

7 A No, that's not how that worked.

8 Q Okay. Why don't you tell me how that works.

9 A Her odometer mileage on the car from the download
10 and the time we had the vehicle shows 36 miles. So
11 when I plugged those addresses into Google, one of the
12 poss -- it came up as 36 miles as a possibility.

13 Q And you knew that there was another route of
14 travel to the same location, correct?

15 A What do you mean?

16 Q There were alternative routes of travel to the
17 same two points, from and to the same points, correct?

18 A Yes. Yes.

19 Q You could have tried to extract the location data
20 from Ms. Read's cell phone to determine the exact route
21 of travel, correct?

22 A I don't know. I don't have access to cell phone
23 extractions.

24 Q So that answers my next question. You did not
25 even attempt to do that, did you?

1 A No.

2 Q You did attempt to analyze the key cycles for the
3 Lexus in order to determine placement of that vehicle.
4 You just talked about that with Mr. Lally, right?

5 A Yes.

6 Q I'm going to be clear for the jurors because most
7 people have probably never heard of key cycles. A key
8 cycle does not have any location data associated with
9 it whatsoever, does it?

10 A Correct.

11 Q It just shows you when a vehicle is turned on, the
12 ignition is on and off. That's one cycle, correct?

13 A No.

14 Q Tell me what I've got wrong?

15 A The key cycle of a car doesn't have to be turned
16 on.

17 Q Say that again.

18 A It goes from off to run. The engine doesn't have
19 to be started to off.

20 Q Understood. So if it turns on -- well, every
21 single ignition is a key cycle. Every time the engine
22 turns on, that's absolutely a key cycle once it's
23 turned off again, right?

24 A That gets recorded as an ignition cycle.

25 Q Right. So a key cycle can be an ignition cycle but

1 it doesn't have to be an ignition cycle, it also can be
2 just a turning up the sort of accessory on, right?

3 A The key cycles turning the accessories on.

4 Q All right. But it doesn't -- my question was where
5 we started with this conversation is it does not have
6 any location data on it whatsoever?

7 A Correct.

8 Q All right. So when you drive your car, you walk
9 out, you get in the car, turn the ignition on, start to
10 drive, get your location turned off. That's one key
11 cycle, right?

12 A One ignition cycle.

13 Q But the -- and I'm going to use the word key
14 cycles because you used the word key cycles in your
15 report, and that's what we're talking about.

16 A I'm using that because that's what -- that's how
17 the trigger was read.

18 Q That's how what?

19 A The triggers were read on a Techstream, that's how
20 they read them the key cycles.

21 Q The key cycles.

22 A Yes.

23 Q I'm going to use that phrase key cycle.

24 A Okay.

25 Q We're talking about the same thing. It's ignition

1 on/ignition off, it's a cycle.

2 A It doesn't have to be on.

3 Q So you mean the engine doesn't have to be turned
4 on?

5 A Correct.

6 Q But if you're seeing triggering events, I'm not
7 trying to be tricky here, you're seeing triggering
8 events, the car's in motion, what does that tell you?
9 Ignition's on or off?

10 A Ignition is on.

11 Q Right. That's what I'm getting to. But it has no
12 location data associated whatsoever. It could be here.
13 It could be in Wyoming. The car wouldn't know the
14 difference. It's not going to report the difference to
15 you, correct?

16 A On the key cycle?

17 Q Right.

18 A On just the key cycle. The key cycle does not
19 give out locations.

20 Q Say that again.

21 A The key cycle does not give a location.

22 Q Right. So your analysis is trying to go from a
23 known key cycle that you can figure out and then work
24 backward from there to try to figure out where the car
25 was on a particular ignition cycle on a key cycle,

1 correct?

2 A I didn't use the key cycle to put it back.

3 Q Say that again.

4 A I did not use the key cycle to place the car back
5 in its location. The key cycles were -- all I got from
6 the key cycles is that they were -- that they occurred
7 close within proximity to the time we've had the
8 vehicle, not basically saying that this was the
9 location based off the key cycle.

10 Q Well, let's look at Exhibit 591.

11 MR. JACKSON: With the Court's permission.

12 THE COURT: Okay.

13 Q You testified on Friday that this is a copy of the
14 exhibit that's put in, it was part of your report,
15 correct?

16 A Yes, it is.

17 Q And this is a chart that shows when this -- that
18 arrow indicates top and bottom where you're testing
19 occurred, correct?

20 A Yes.

21 Q And you move over to the left, that is key cycle
22 what?

23 A Eleven sixty-four.

24 Q Right. So you've testified -- and you can turn the
25 lights on.

1 MR. JACKSON: Your Honor, I don't mind if that
2 stays up. You can turn the lights on. I don't think
3 it hurts anything.

4 Q You stated in your report that there were, quote,
5 two triggers recorded on odometer 12629 and key cycle
6 1162, correct? A Yes.

7 Q These events were prior to the testing triggers on
8 odometer readings 12665/12666 and at key cycle 1164; is
9 that right?

10 A Yes.

11 Q Okay. So what we're saying, what you're saying, in
12 that report is the triggering events were at 1162 going
13 in reverse in order, 1162 becomes before 1164, they're
14 numerical; is that right?

15 A Yes.

16 Q Every other single key cycle just tags another
17 number on top of it, right? There's no formula.

18 A Correct.

19 Q After one comes two, after two comes three, four,
20 five, six, and then move on, right?

21 A Yes.

22 Q So by the time you got the vehicle, there had been
23 1,164 key cycles on the history of that car, correct?

24 A Correct.

25 Q All right. And you knew when you put it in your

1 report or you know that the triggering events that you
2 see on 1164, those are yours?

3 A Yes.

4 Q Right. I mean, that's your testing.

5 A Yes.

6 Q And you were very clear that the triggers that you
7 recorded and you talked to Mr. Lally about were two
8 cycles before that?

9 A Yes.

10 Q Meaning the ignition cycles at least, right?

11 A Yeah.

12 Q Let me finish the point. You said that the
13 mileage distance between these two triggers and the
14 triggers that occurred while testing was 36 miles; you
15 just said that, right?

16 A Yes.

17 Q And the key cycle difference was exactly two key
18 cycles, right?

19 A Yes.

20 Q 1164, 1163, 1162. That's the triggering events,
21 correct?

22 A That is correct.

23 Q You also reiterated in your report in paragraph
24 23, 24, 26, and 29, and also in this exhibit in your
25 CARS report that the triggers occurred at key cycle

1 1162, right?

2 A Yes.

3 Q You were assisted in your CARS report I think you
4 mentioned Trooper Zach Clark; is that right?

5 A Yes.

6 Q Trooper Proctor assisted to a certain degree,
7 correct?

8 A Yes.

9 Q Trooper Marini, Carol Marini; is that right?

10 A Yes.

11 Q Also Sergeant Sam -- I'm sorry -- Sean Good of
12 Canton PD assisted as well, correct?

13 A Yes, in a sense.

14 Q Did they all read the report before it was
15 finalized?

16 A No.

17 Q Did you have any supervisor read the report before
18 it was finalized?

19 A Yes.

20 Q And he agreed with the assessments in the report?

21 A Yes.

22 MR. LALLY: Objection.

23 Q So in summary everybody that read the report and
24 you who authored the report, believed and it's
25 reflected in that report, that key cycle 1162 contained

1 the two triggers that you're talking about, right?

2 A Yes.

3 Q That's the three-point turn -- I guess it's now a
4 three-point turn, right? Changing direction and then
5 the reverse at 24 miles per hour, correct?

6 A Correct.

7 Q And you then went on and testified to that exact
8 thing under oath in front of the state grand jury,
9 correct?

10 A Yes. Hold on. On the Techstreams?

11 Q Yeah, on the key cycles.

12 A Not in grand jury.

13 Q Okay. You testified to it on direct examination
14 on Friday, and again this morning?

15 A Yeah, that's correct.

16 Q If your testing occurred at key cycle 1164, that
17 means you turned the engine on or the ignition on to
18 start your testing, correct?

19 A Correct.

20 Q And that triggering event that we see up there at
21 1164 initiated your testing; is that right?

22 A Yes.

23 Q All right. So that 1164 is where you -- that's
24 where there's no more unknowns in other words. Like
25 you know exactly where the car is, who's in the car,

1 who turned the car on, and what the triggering events
2 were and what they reflected because you did it,
3 correct?

4 A Correct.

5 Q It's you?

6 A Yes.

7 Q So that would be the cornerstone, basically, of
8 your entire analysis is the key cycles.

9 A Say it again.

10 Q The cornerstone, like in other words the one known
11 that is immovable - it's immutable - is 1164 began your
12 -- your testing; is that right?

13 MR. LALLY: Objection.

14 THE COURT: Is that right? I'm going to allow the
15 question.

16 A Yeah, it's when the car was in state custody.

17 Q All right. So starting at 1164 and counting
18 backward, before you started your testing, you note
19 that the SUV had to be started, the ignition had to be
20 turned over, and it was driven to the sallyport in
21 Canton at 5:31 p.m. from a tow truck on January 29,
22 correct?

23 A I didn't know.

24 Q You did or did not?

25 A Did not know that.

1 Q Okay. Assuming that the car had to be started and
2 put on a tow truck, that would be key cycle what?

3 A I don't know how -- I can't speak to the fact that
4 that recorded a key cycle at that time.

5 Q I can't hear you.

6 A I can't speak to the fact that it would record a
7 key cycle at that time.

8 Q Okay. If the car was turned on and driven onto a
9 tow truck, would that be a key cycle?

10 A I don't know because these keys record in
11 different ways. So I can't speak to how or why it did
12 not record on there. All I can speak to is that those
13 are the key cycles. The odometer mileage is more what
14 I was going after on this whole thing.

15 Q Trooper Paul, you just said unequivocally that a
16 car is turned on and then turned off, there's a key
17 cycle.

18 A I said when the car -- without the ignition on,
19 that's a key cycle.

20 Q Right.

21 A That's correct.

22 Q That's what I mean. When it's turned on. When the
23 engine turns on.

24 A That's the definition of what it is. I can't
25 speak to why not -- why it didn't go on -- why it did

1 not record.

2 Q Well, let's talk about the ignition cycles.

3 A Okay.

4 Q Before 1164, okay?

5 A Okay.

6 Q Obviously, the car had had to get to Canton PD
7 because you saw it there, correct?

8 A Correct.

9 Q Assume for purposes of my question the car was
10 turned on and there's a video of it turning on, driving
11 up onto a flatbed tow truck.

12 A Yes.

13 Q That would be ignition cycle. I'm going to use
14 your word, a cycle ignition cycle 1163, correct?

15 A Again, ignition cycle/key cycle are two different
16 things.

17 Q Which one do you want me to use?

18 A If you want to talk about key cycles, key cycles.
19 If you want to talk about ignition cycles, it's
20 ignition cycles when a vehicle gets turned on. A key
21 cycle does have to -- it does not need to be turned on.

22 Q But every single ignition cycle includes a key
23 cycle. You can't have an ignition cycle without a key
24 cycle, correct?

25 A Well, if we want to check about it, just use a key

1 cycle or an ignition cycle.

2 Q Trooper Paul --

3 A I'm trying to make sure that this gets out -- I'm
4 sorry. I'm trying to make sure that this gets put out
5 the correct way.

6 Q Every ignition cycle includes a key cycle,
7 correct?

8 A In a sense.

9 Q By definition, it has to, right?

10 A It doesn't have to. We record it multiple
11 different ways.

12 Q You can have an ignition cycle without a key
13 cycle?

14 A I don't how to record it, but it could happen.

15 Q Explain that. How could that possibly happen?

16 A Because a key cycle is when it turns on, not
17 engine running, and then turns off.

18 Q Okay. So work with me here.

19 A Ignition cycle is when it turns on, engine running
20 for two seconds, and then it comes off.

21 Q Okay. So --

22 A Or the two seconds was not on long enough, it
23 might not record one.

24 Q Okay. Let's ignore the two seconds.

25 A Okay.

1 Q That's not what we're doing.

2 A Okay.

3 Q All right. Let's assume that it's an old-fashioned
4 type of key.

5 A Okay.

6 Q Okay. Halfway on, the electricity is on. It's
7 like it used to be called ACC --

8 A Yeah.

9 Q -- right? That's a key cycle, correct?

10 A For that intents and purposes, yes. This vehicle
11 is not a key cycle.

12 Q Keep turning.

13 A Okay.

14 Q And that turns the engine on, right?

15 A It turn the engine on, correct.

16 Q And the ignition cycle, right?

17 A Yes. Then it turns off.

18 Q The ignition cycle necessarily includes the
19 precursor key cycle, correct, even though every key
20 cycle might not include an ignition cycle; would you
21 agree with that?

22 A In that scenario, yes.

23 Q Fine. With that definition, I want to talk about
24 ignition cycles because I don't want to get confused
25 about accessories. Just assume the engine --

1 A Okay. Okay.

2 Q -- lights up. If you started your testing at
3 1164, and if the engine was turned on thereby
4 indicating -- initiating a key cycle, driving the car
5 onto a flatbed truck, and then hauling it over to
6 Canton PD, that would be key cycle 1163 in that
7 hypothetical, correct?

8 A It could be.

9 Q Okay. Then going backward from there, if the SUV
10 was -- I'm sorry. Let me add one event that I just
11 forgot.

12 It had to get off the tow truck in Canton and be
13 driven into the sallyport, did you ever see that video?

14 A No.

15 Q It being driven in?

16 A No.

17 Q If there was a video showing that the car was
18 actually driven into the sallyport, that would
19 necessarily be a key cycle, correct?

20 A Possibly.

21 Q Okay. So that would be at key cycle 1163. My
22 mistake. I was missing one, right?

23 A Okay.

24 Q Before that, the car was turned on and driven onto
25 the flatbed to get to Canton, that would be key cycle

1 1162 in order, correct, going backward?

2 A It's possible.

3 Q All right. Before that if the car were started
4 and the car was driven from 1 Meadows Avenue to Karen
5 Read's parents' home in Dighton, that would be another
6 key cycle 1161, correct?

7 A They're possible.

8 Q Before that if the SUV was started and driven by
9 Ms. Read from the garage at John O'Keefe's house to
10 Jennifer McCabe's house at 5:07 in the morning, that
11 would be another key cycle, correct, 1160; isn't that
12 right?

13 A It's possible.

14 Q And before that if the SUV was started and driven
15 by Ms. Read to the Waterfall -- I'm sorry. From the
16 Waterfall to 34 Fairview at approximately 12:15 a.m.,
17 that would be another key cycle 11:59, right?

18 A It's possible.

19 Q I want to be clear. The reason that these numbers
20 stick in the diagram, right? Not every single number
21 is in order on this left-hand column because this is
22 only the diagram of when triggering events occur,
23 right?

24 A Yes.

25 Q Something unusual about the operations of the

1 vehicle, correct?

2 A Yes.

3 Q And it's clear that from the data, there was no
4 triggering event at key cycle 1159, was there?

5 A No.

6 Q So assuming the driving events that I just told
7 you, right, assuming for purposes of my question that
8 the driving events started at 1159 driving over to 34
9 Fairview from the Waterfall, then driving at 5:07 in
10 the morning over to Jen McCabe's house, 1160, then
11 driving to Dighton, her parents' house 1161, then the
12 car being seized in Dighton by Trooper Proctor, 1162,
13 then the car being taken off the flatbed and driven
14 into the sallyport at Canton, 1163. Your testing
15 starts at 1164. That would mean that at 1162, that key
16 cycle would include the time in which Trooper Proctor
17 had possession of that car, correct?

18 A No.

19 Q Assuming that -- assuming my hypothetical.

20 A Your hypothetical?

21 Q Yes.

22 A If that's hypothetically how it works then, yes.

23 Q Then what?

24 A If that's hypothetically how it works then, yes.

25 Q On June 9, 2022, you were asked by a grand jury

1 whether you knew or had done any scientific testing to
2 determine the distance a body would actually travel if
3 struck by a vehicle. Do you remember that?

4 A Not that specifically. Not in that way.

5 Q Do you remember answering that you had not -- I'm
6 just paraphrasing. That you had not done all the --
7 you hadn't finished your report yet.

8 THE COURT: Why don't you show him? He said he
9 didn't remember it that way.

10 MR. JACKSON: May I?

11 THE COURT: Yes.

12 MR. JACKSON: Thank you.

13 Q Take a look at the middle the page, your answers
14 starts at about line 12, but the question above it is
15 probably informative.

16 A (Witness complies.)

17 Q Do you have that in mind?

18 A Yep.

19 MR. JACKSON: May I approach?

20 THE COURT: Yes.

21 Q You were asked -- does that remind you that you
22 were asked by a grand juror if you could calculate how
23 far a body would move having been struck by a vehicle?

24 A Yes.

25 Q And you indicated, quote, yeah, there's -- I mean,

1 there's certain calculations you can do with that, but
2 figure out if you say if the car backed up, hit
3 somebody and then they go a certain amount of distance,
4 and it's based on miles per hour, the speed of the
5 vehicle, the striking vehicle and stuff. Do you
6 remember saying that?

7 A Yes.

8 Q What did you mean by stuff?

9 A I don't know.

10 Q You said that the calculations would be based on
11 miles per hour and stuff. Did you do -- did you ever
12 do any stuff to test that? That was the grand juror's
13 question.

14 A No, we cannot calculate anything from this
15 collision.

16 Q Say that one more time.

17 A We could not calculate anything from this
18 collision.

19 Q Who's we?

20 A I'm sorry. Me, the role, me.

21 Q Do you know John O'Keefe's weight, right?

22 A What's that?

23 Q You know John O'Keefe's weight 217 pounds, right?

24 A Yes.

25 Q Did you know that?

1 A I don't know his weight, no.

2 Q Do you know the weight of the vehicle?

3 A Yes.

4 Q What's the weight of the vehicle, gross weight?

5 A What's the gross weight?

6 Q Yeah.

7 A I think it's approximately 7300 pounds.

8 Q Were you able to calculate the mass of the
9 vehicle?

10 A I did not calculate the mass of the vehicle.

11 Q Well, you told the grand juror that you were
12 planning on doing that kind of stuff to calculate how
13 far a person would travel being struck at that speed
14 with a car of that weight. You didn't do those
15 calculations?

16 A No, because the calculations would vastly
17 underestimate the speed of the vehicle.

18 Q You testified again, "My report isn't done yet.
19 I'm going to look into it. I'm looking into all that
20 stuff," correct?

21 A Yes.

22 Q There's that word again. It's been more than two
23 years since that statement at the grand jury. Is your
24 report finished?

25 A Yes, it is.

1 Q Did you engage in any of those calculations?

2 A I looked into it. This type of collision would
3 not -- I would not be able to use the formulas for this
4 type of collision.

5 Q Well, let's talk about those formulas. How would
6 you calculate how far a body at rest would travel after
7 being struck by an object in motion? How would you
8 calculate that?

9 A In pedestrian collisions, I use a Searle formula.
10 Searle throw formula.

11 Q A what formula?

12 A Searle.

13 Q What does that mean?

14 A It's a type of formula that we'd use for a
15 calculation as opposed to impact -- that's used for
16 pedestrians.

17 Q So that includes certain principles of physics to
18 calculate that, right?

19 A What do you mean?

20 Q I'm sorry?

21 A What do you mean by certain forms of physics?

22 Q There would be physics calculations that would be
23 required to figure out how far a body at rest would
24 move having been struck by an object in motion?

25 A Yeah --

1 Q That's a basic principle --

2 A Yeah, I guess you could say though.

3 Q Okay. Can you describe for the jurors exactly what
4 calculations you would need to employ to determine how
5 far a body at rest would travel having been struck by
6 an object in motion?

7 A So in my -- in this scenario, in this collision,
8 it's more of a sideswipe. So he did not sustain -- he
9 did not get enough speed of the vehicle post impact
10 with the vehicle to be calculations. His center mass
11 was offset from the vehicle. So we cannot get -- we
12 could vastly underestimate his speed. So that's why I
13 did not do a formula. If he was more in line with
14 behind the vehicle, he would've been projected forward
15 and using that projection forward, when -- he would've
16 had -- he would've gone to get more closely to the
17 actual speed of the vehicle during that post impact
18 travels.

19 Q Well, that presumes a couple of things, Trooper
20 Paul. That presumes that he was quote/unquote
21 sideswiped, right?

22 A Presumed?

23 Q Presumed by you. You didn't see how he was hit,
24 did you?

25 A Based on the evidence, it appeared to be a

1 sideswipe.

2 Q That's your opinion?

3 A That's just reading the evidence.

4 Q You're saying that the principles of physics as we
5 know them today and modern mathematics is thwarted by a
6 sideswipe?

7 MR. LALLY: Objection.

8 THE COURT: Is that what you're saying?

9 THE WITNESS: The calculations are out there, you
10 can get a speed. It would just underestimate the
11 speed.

12 Q You would have to know what the initial momentum
13 of the object is that's in motion, correct?

14 A Of what object?

15 Q The truck, Trooper Paul.

16 A I would have to know that speed?

17 Q Yep. You would have to know what the initial
18 momentum is, not speed. Momentum. That's -- there's a
19 difference.

20 A Okay.

21 Q Right? Would you agree with that?

22 A No.

23 Q You wouldn't have to calculate what the initial
24 momentum is of the object in motion to determine the
25 distance of the body at rest would move?

1 A Well, in that sense. Are we talking about I'm
2 trying to find a speed of the vehicle. That's usually
3 what we're trying to do.

4 Q All right. Okay. Well, let's put the speed of the
5 vehicle aside. Let's talk about initial momentum.
6 What's the formula for calculating initial momentum?

7 A There's different types of momentum formulas.

8 Q There's actually one type of momentum formula.
9 It's to calculate momentum --

10 MR. LALLY: Objection.

11 THE COURT: Sustained.

12 Q To calculate momentum there's a --

13 THE COURT: So sustained. Ask it differently.

14 Q Isn't it true, Trooper Paul, that there is a
15 singular calculation for determining initial momentum;
16 that is, P equals M times V where P is the momentum
17 you're solving for that, M is mass. You multiply that
18 by velocity; is that right? It's pretty simple.

19 A You wouldn't use that in a pedestrian collision.

20 Q Oh, because the pedestrians somehow magically out
21 of the realm of physics?

22 MR. LALLY: Objection.

23 THE COURT: Sustained.

24 Q Is the pedestrian out of the realm of physics and
25 calculations?

1 A No, it's the weight differential between the
2 pedestrian and the vehicle.

3 Q So if the vehicle is too heavy and the body is too
4 light, you can't calculate the initial momentum of the
5 vehicle?

6 A Yes.

7 Q Got it. Where did you learn that?

8 A It's in my math class. We only use momentum for a
9 vehicle --

10 Q In your math class?

11 A The math -- the crash reconstruction classes that
12 I have taken.

13 Q Got it. Got it. Would you need to apply the
14 theory of conservation of momentum when calculating
15 this data?

16 A Do I need to calculate the conservation of
17 momentum?

18 Q I'm sorry, the conservation of momentum?

19 A Yes.

20 Q Do you know what that is? There's an equation for
21 that as well, right?

22 A Yes.

23 Q Do you know what that is?

24 A Not off the top my head, but yes.

25 Q Based on the basic principles of physics, is the

1 total momentum of the collision greater or less than
2 the total momentum after the collision? The total
3 momentum before the collision, is it greater or less
4 than the total momentum after the collision? Basic
5 question.

6 A What type of collision?

7 Q Trooper Paul, they're exactly equal in also -- in
8 all respects under the principles of physics, right?
9 That's the theory of the conservation of momentum.
10 Momentum doesn't change.

11 A Yes.

12 Q It transfers from one body to another --

13 A Yes.

14 Q Correct?

15 A Correct.

16 Q Why didn't you say that to the jurors?

17 MR. LALLY: Objection, Your Honor.

18 THE COURT: Sustained.

19 Q Trooper Paul, if you were qualified to, quote,
20 look into all this stuff, you would probably know these
21 answers, wouldn't you?

22 MR. LALLY: Objection.

23 THE COURT: Sustained.

24 Q Are there any other calculations that you need to
25 figure out the stuff that you were talking to about

1 with the grand jury?

2 MR. LALLY: Objection.

3 THE COURT: Sustained.

4 Q How about calculating the final velocity of the
5 objects after the collision? Would that be important?

6 A What objects?

7 Q That would be John O'Keefe's body, sir, the object
8 that you claim was flying through the air 30 feet.

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 Q How about calculating the displacement using
12 kinematic equations, did you ever do that?

13 A The displacement of the body?

14 Q In order to calculate how far the body would move
15 based on the mass of the object striking the body, did
16 you use displacement using kinematic equations?

17 A So like I said before, the sideswipe he would not
18 have gotten hundred percent of the vehicle -- a hundred
19 percent of the speed of the striking vehicle. It would
20 have vastly underestimated this vehicle. You can hit a
21 person and sideswipe them, and spin them off to the
22 side and have that -- and get a speed from those
23 calculations.

24 Q So you're saying the discipline of physics cannot
25 figure out how far John O'Keefe's body would move, but

1 you, personally, figured out that he would have flow
2 now somewhat or been projected somewhat 30 feet?

3 MR. LALLY: Objection.

4 Q Is that right?

5 THE COURT: Sustained.

6 Q Are you saying that the principles of physics are
7 incapable of determining that the proper calculations
8 how far John O'Keefe's body would've moved given the
9 collision at issue?

10 MR. LALLY: Objection.

11 THE COURT: Is that what you're saying, Trooper?

12 THE WITNESS: No.

13 THE COURT: Okay. Next question.

14 Q Well, you just said because it was a sideswipe,
15 all these calculations, these physics calculations are
16 inadequate, right?

17 A I'm saying it would underestimate the speed and
18 the distance.

19 Q The truth is, Trooper Paul, you have no idea what
20 all these physics calculations mean, do you?

21 MR. LALLY: Objection.

22 THE COURT: Sustained.

23 Q You've not been trained in physics formally, have
24 you?

25 A Yes.

1 Q You have been?

2 A It's in part -- it's incorporated into the
3 classes.

4 Q Right. You had a few classes. You used the word
5 physics, but you haven't been formally trained in
6 physics, have you?

7 MR. LALLY: Objection.

8 THE COURT: Sustained.

9 Q You haven't been formally trained in kinematics,
10 correct?

11 A It's in the aspects of all our crash
12 reconstruction classes.

13 Q You haven't been formally trained and hold no
14 degrees in biomechanics, do you?

15 A I do not have a degree in biomechanics.

16 Q In fact, basically what you did in this case was
17 calculated ignition cycles, and you got those wrong,
18 right?

19 MR. LALLY: Objection.

20 THE COURT: Sustained. Come on, Mr. Jackson. Ask
21 the appropriate part of the question, you'll get it.

22 Q Let me ask you this. Based on your reconstruction
23 and your two-year investigation, exactly how was that
24 taillight shattered? Explain it to us.

25 A How does the taillight -- what do you -- so the

1 taillight in this case was shattered when it was
2 struck(sic) John O'Keefe's arm.

3 Q Exactly what part of his arm?

4 A Based on what I saw for his injuries, it was from
5 upper part of his arm down.

6 Q Was his arm out and it just struck the arm like a
7 hinge? Was it in front of him? You did the
8 reconstruction. Tell the jurors exactly how his body
9 was positioned when he was struck by that?

10 A So it looks like his arm is more kind of like this
11 (demonstrating) if I can try.

12 Q You're indicating up and by his side, correct?

13 A Yes.

14 Q All right. And the taillight would have struck his
15 arm, right?

16 A Yes.

17 Q Not his torso?

18 A Yes.

19 Q Okay. So the full mass, the full weight of that
20 truck hit him basically at the elbow; is that right?

21 A No.

22 Q Missing his person?

23 A I said the upper part of the arm, down, yeah.

24 Q The forebone and the biceps.

25 A I didn't see anything that shows it an indication

1 that his lower torso was struck, but --

2 Q Okay. So this torso --

3 A It's not saying it could not have been a
4 possibility, but I just didn't see anything.

5 Q So his torso was spared from being hit, but the
6 arm took the brunt, the full force of the vehicle,
7 correct?

8 A Like arm, the shoulder, yes.

9 Q Okay. And you said he then did a spin like a sort
10 of pirouette?

11 A He got spun around kind of. Possibly the way he
12 got struck, it looks like it could have gone turn
13 around counterclockwise.

14 Q Okay. So he turns around counter clockwise, is he
15 turned around in there counter clockwise?

16 A Yes, initially.

17 Q Okay. So he gets hit in the upper biceps/shoulder
18 area and down to the forearm, right?

19 A Yes.

20 Q By an unbroken taillight, right?

21 A Yes.

22 Q In other words, it's nice and smooth. Nothing --
23 no shards of plastic or anything broken at the time
24 that it made contact with his arm, right?

25 A Correct.

1 Q So how did his arm get all cut up?

2 A Because when his arm struck the taillight, the
3 taillight then it cracked, and as the car is driving
4 past him, the taillight it scratch it.

5 Q Got it. So he gets hit by the car, not his torso
6 just the arm. The taillight cracks, and as it passes
7 by, his arm stays with it long enough to get
8 striations, the scratches that we see, those
9 lacerations -- I'm sorry -- those abrasions that we
10 see, right?

11 A In a sense, yes.

12 Q And at the same time, he does the pirouette and
13 flies 30 feet to his final point of rest?

14 A I don't know if he did a pirouette.

15 Q Well, I'm using the word pirouette. He spun
16 around.

17 A He started rotating counter clockwise. I don't
18 know how far he ran counter clockwise, but he started
19 to rotate. According to that it would have pushed him
20 to rotate counter clockwise. Whether or not he went
21 counter clockwise, all the way to his back toward the
22 ground, that's a possible -- it seems like the most
23 likely possibility.

24 Q Did you account for the fact that his arm was
25 unhinged?

1 A It was what? Say it again.

2 Q Did you account for the fact that in this scenario
3 that you just told the jurors that his arm was on a
4 hinge?

5 A On a hinge?

6 Q On his shoulder.

7 A Okay.

8 Q So arm got hit, didn't his arm just swing?

9 A I said arm and shoulder area. So his arm could've
10 been a part of it.

11 Q Even if his shoulder got --

12 A Okay.

13 Q -- the upper part. You're pointing to his upper
14 biceps.

15 A Mm-hmm.

16 Q Right. There's no injuries on his shoulder. Not a
17 single one. Not even a bruise, right?

18 A I said it looked like to me it was from up here. I
19 don't how far I can back here, but it was up here.

20 Q Well, you're the one that talked about his
21 injuries on his arm.

22 A Yes.

23 Q That's limited to about mid biceps, it's about mid
24 forearm, correct?

25 A Okay.

1 Q Right?

2 A Yes.

3 Q No injuries on the shoulder, no injuries on the
4 torso, no injury on the ribs, no injuries on the back,
5 correct? Is that right?

6 A Yes.

7 Q So your theory is he got hit on the arm, took the
8 brunt of the force from the taillight on the arm,
9 stayed with the vehicle long enough for the taillight
10 to explode basically, to shatter, then these striations
11 get on his arm, these abrasions, does a pirouette, a
12 spin counterclockwise, he flies 30 feet in the air to
13 his final rest.

14 A Yeah, it probably go faster than that, though.

15 Q I thought you said he hit his head on the curb?

16 A I said that's one of the possibilities of when you
17 look at the roadway. As he gets spun around counter
18 clockwise, it's a possibility that the curb is there,
19 any blunt force object on the ground as the ground is
20 pretty blunt.

21 Q Oh, except in your scenario that you just told us,
22 he flew through the air onto the white dusting of snow
23 and perhaps the dirt.

24 A I didn't say through the air.

25 Q Say that again.

1 A I didn't say he got flown -- thrown through the
2 air.

3 Q Okay. I'll use your word. He got projected.

4 A Projected doesn't mean it's not incorporating just
5 throw. Project just means you get pushed forward.
6 There's two parts to that. There's the air, then
7 there's the ground. Like I said earlier, the tumbling,
8 the rolling whatever that part of the crash would
9 happen. Projecting is just what we call what happens to
10 a pedestrian post impact with a crash.

11 Q Okay. So I have a couple questions. If his arm,
12 elbow took the brunt of that entire, how do you account
13 for the fact that he didn't suffer a broken bone?

14 A I don't know.

15 Q How do you account for the fact that he didn't
16 have a fracture?

17 MR. LALLY: Objection.

18 THE COURT: Sustained.

19 Q How do you account for the fact that he didn't
20 even have a bruise on the arm?

21 MR. LALLY: Objection.

22 THE COURT: That's sustained.

23 MR. JACKSON: May we approach?

24 THE COURT: Yes.

25 (Sidebar commences:

1 (Impounded sidebar.)

2 end of sidebar.)

3 MR. LALLY: May I inquire, Your Honor?

4 THE COURT: Yes.

5 Q The truth is, Trooper Paul, you know having
6 investigated other pedestrian accidents in the past
7 that John O'Keefe's injuries do not look anything like
8 an automobile pedestrian accident, do they?

9 A Yes, I do.

10 Q Isn't it true, Trooper Paul, you came to these
11 opinions and conclusions because Trooper Proctor told
12 you to come to these opinions and conclusions in
13 furtherance of his investigation?

14 A That is not true.

15 Q That's why you have these opinions and conclusions
16 that just don't make sense, correct?

17 A That is not true.

18 Q And you're just trying to fit a square peg into a
19 round hole?

20 MR. LALLY: Objection.

21 THE COURT: Sustained.

22 MR. JACKSON: That's all I have.

23 THE COURT: All right. Jurors, we'll take the
24 morning recess.

25 (Jury out.)

1 THE COURT: I'll see counsel at sidebar about
2 scheduling.

3 (Court in recess.)
4
5
6

7 (Court in session.)

8 (Defendant is present with counsel.)

9 (Jury in.)

10 THE COURT: All right. Mr. Lally, whenever you're
11 ready.

12 MR. LALLY: Thank you, Your Honor.

13 **REDIRECT EXAMINATION**

14 **BY MR. LALLY:**

15 Q Good morning, Trooper. Now, with regard to your
16 testimony as far as that triggering event, when the two
17 events on twelve thousand sixty-nine B, you testified
18 that that was consistent with a pedestrian collision;
19 is that correct?

20 A That is correct.

21 Q Again, if you could tell the jury why is that
22 consistent with a pedestrian collision/

23 A The one specifically with the speeds and
24 everything, is that what you're referring to?

25 Q The one going 22 miles per hour in reverse --

1 A Right. Okay. Yeah, so why I think that's
2 consistent with a pedestrian strike is because of the
3 sudden change in the speed. It drops down by a half
4 mile-per-hour. The external(ph) pedal is staying
5 constant at the same percentage, and the steering wheel
6 angle also turns to the right.

7 Q Now, your overall opinion is based on what you did
8 as far as your reconstruction, correct?

9 A Yes.

10 Q And other information that you had at your
11 disposal in formulating your opinion?

12 A Like from other reports and stuff?

13 Q Yes.

14 A Yes.

15 Q And that would include physical evidence; is that
16 correct?

17 A Correct.

18 Q And that would include witness statements,
19 correct?

20 MR. JACKSON: Objection.

21 THE COURT: Sustained as to form.

22 Q What, if anything, else would that include?

23 A The roadway evidence, witness statements.

24 Q And witness statements, would that also include
25 statements of the defendant?

1 A Correct.

2 Q Are you aware that the defendant indicated in
3 statements to troopers that she conducted a three-point
4 turn --

5 MR. JACKSON: Objection.

6 Q -- in the area of 34 Fairview Road?

7 THE COURT: I'm going to allow that question.

8 A Yes.

9 Q And what you observed in that triggering event, is
10 that from that mileage was that consistent with the
11 defendant's own statement?

12 A Yes, it is.

13 Q Now let me ask you a little bit if you could again
14 for the jury, clarify the difference between what you
15 termed as an area of impact versus a point of impact.

16 A Yes, an area of impact is broader, it's a bigger
17 area. Point of impact would mean something as a --
18 actually, right there. That would be the area of
19 impact.

20 Q Now if I could ask the cell phone that was located
21 under Mr. O'Keefe's body. That location, is that also
22 consistent with the linear path that you were
23 testifying about earlier?

24 A Yes, it was.

25 Q And do you know whether or not that cell phone was

1 in his hand or in his back pocket or somewhere else?

2 A I do not know.

3 Q And now as far as the -- let me ask you this. You
4 were shown some photographs of some taillight pieces
5 near a fire hydrant, correct?

6 A Yes.

7 Q As far as the area of impact, that was from what
8 you determined that with Mr. O'Keefe's sneaker; is that
9 correct?

10 A Yeah, it was within -- what I've had for initial
11 evidence I said the area of impact was the start of
12 that -- in that area.

13 THE COURT REPORTER: I'm sorry.

14 A So what I was saying was the area of impact is --
15 was prior to the area the sneaker was. It was in that
16 path just prior to that area.

17 Q And why did you determine that it was in that
18 area?

19 A Because that was the first point of evidence.

20 Q And, I'm sorry, just first point of evidence in
21 relation to what and sort of how it was -- how the
22 evidence was configured as it was evidence?

23 A That was pointed to me as the first point of
24 evidence away from -- the furthest (indiscernible) at
25 that time that knew away from the pedestrian.

1 MR. LALLY: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 Q And, sir, I'm showing you what's been marked as
5 Exhibit 58. Do you recognize what's depicted in that
6 photograph?

7 A Yes.

8 MR. LALLY: And, Your Honor, with the Court's
9 permission, if I could publish that to the jury.

10 THE COURT: Okay. What exhibit number is it?

11 MR. LALLY: Fifty-eight.

12 THE COURT: Thank you.

13 Q And, Trooper Paul, do you recognize what's up on
14 the screen?

15 A Yes, I do.

16 Q And what do you recognize that to be?

17 A It's 34 Fairview to the left side, and that's the
18 fire hydrant.

19 Q And as far as these photographs and the
20 photographs shown to you by Mr. Jackson on cross-
21 examination, do you know when those photographs were
22 taken?

23 A I do not know specifically at what time those were
24 taken.

25 Q Do you not know if those photographs were taken on

1 February 3, 2022?

2 MR. JACKSON: Objection.

3 THE COURT: The objection is sustained.

4 Q Now, Trooper, if you could, using the laser
5 pointer, I know you've done on this diagram, but if you
6 could with the laser pointer and mark what's on the
7 screen as Exhibit 58, direct the jury's attention to
8 where you believe the area of impact to be between the
9 defendant's Lexus and Mr. O'Keefe.

10 A It's probably somewhere out here (indicating).

11 Q And as far as that linear path that you were
12 talking about from the area of impact, where that go
13 from and where did that go to?

14 A So from -- I think it went kind of like this way.

15 MR. LALLY: Ms. Gilman, you can take that down.
16 May I approach just to retrieve, Your Honor?

17 THE COURT: Yes.

18 Q Now, Trooper, if you could explain to the jury as
19 far as what you were describing as Mr. O'Keefe's post
20 impact movement starting sort of with the point of
21 impact between himself and the SUV to the point where
22 he comes to final rest on the lawn.

23 A Yes. So he was struck along the right side in the
24 area of his arm and then he was -- and he post impact
25 with the Lexus, he rotated counterclockwise and

1 eventually hit the ground and came to final rest.

2 Q And the ground, based on your understanding of the
3 weather conditions, was frozen at the time; is that
4 correct?

5 MR. JACKSON: Objection.

6 THE COURT: Sustained. Watch the form, Mr. Lally.

7 MR. LALLY: Yes, Your Honor.

8 Q So as far as anything in your testimony about Mr.
9 O'Keefe's actions, does that involve a pirouette?

10 A No.

11 Q Is there a rotation; is that correct?

12 A Correct.

13 Q And as far as 30 feet in the air, do you have any
14 opinion as to whether or not he flew 30 feet in the
15 air?

16 A I don't have any evidence that he would've flown
17 30 feet in the air.

18 Q And so as far as from your training and experience
19 when it comes to pedestrian collisions, are you able to
20 determine or calculate how much distance someone is in
21 the air and how much distance someone sort of rolls or
22 tumbles to their final resting position?

23 A Sorry. Say it again.

24 Q From your training and experience based on this
25 collision, are you able to determine how far Mr.

1 O'Keefe was traveling in the air versus how far he
2 traveled tumbling or rolling after he hit the ground?

3 A I do not have a calculation for this specific
4 style of pedestrian crash due to the sideswipe. So if I
5 did, I could use the formula. It would just vastly
6 underestimate the speed of the vehicle.

7 A Let me ask you a little bit about. You were
8 talking about the Searle pedestrian flow formula,
9 correct?

10 A Correct.

11 Q And that's something that developed in the course
12 of physics specific to reconstruction by someone named
13 Dr. Searle, correct?

14 A Correct.

15 Q And that's S-E-A-R-L-E; is that correct?

16 A That is correct.

17 Q And with respect to Dr. Searle's formula, why is
18 that inapplicable in sideswipe collision versus some
19 other type of collision?

20 A Because it takes in -- it's looking for more not
21 so much the formula, it's how much projection
22 efficiency that would have occurred, how much
23 percentage of the speed of the striking vehicle
24 would've happened. In order for the formula to work,
25 the more of the body would have strike the vehicle, the

1 more efficient the outcome would be in the speed.

2 Q And the center of mass that you were talking about
3 sort of in the collision sequence, what, if any, role
4 does that play in regard to your ability to do that
5 calculation?

6 A It would just, like I said, it would underestimate
7 the speed of the striking vehicle due to a certain mass
8 not in -- not within the rear of the vehicle.

9 Q And not to twist your words or anything, but as
10 far as when you say underestimate, that would not be an
11 accurate reflection of the defendant's vehicle speed,
12 correct?

13 A Correct.

14 Q Now, you were asked some questions about the glass
15 and indicated that were a number of reasons why the
16 glass would travel with him being Mr. O'Keefe. Can you
17 explain what those are?

18 A Yeah, the glass could have struck the vehicle also
19 in the same way. It could have still been attached to
20 his hand and still gone with him the same way. It
21 could've been attached to his body in mid-air. There's
22 -- that's the multiple ways that the glass would have
23 stayed with him.

24 Q Now in speaking of collision, sequences,
25 particularly collisions involving multiple vehicles,

1 vehicles are affixed with bumpers, correct?

2 A Correct.

3 Q What's the purpose of a bumper on a vehicle?

4 A To help absorb --

5 MR. JACKSON: Objection.

6 THE COURT: Scope.

7 MR. JACKSON: Yes.

8 THE COURT: Sustained.

9 MR. LALLY: Your Honor, if I may. I don't believe
10 it is.

11 THE COURT: So why don't we come to sidebar.

12 (Sidebar commences:

13 (Sealed portion of transcript.)

14 end of sidebar.)

15 Q I'll try it again, Trooper. If I could ask you,
16 what is the purpose of a bumper on a vehicle?

17 A It's there to help absorb energy from a collision.

18 Q And with reference to the scratches that you were
19 asked about on the vehicle on sort of the right rear
20 quarter panel, what, if any, relationship does the
21 bumpers and their interaction have to your opinion as
22 it relates to that?

23 A Sorry. Say that again.

24 Q Getting back to what you just testified about
25 bumpers. You were also asked some questions about

1 scratches on the right rear corner panel of the
2 vehicle, correct?

3 A Correct.

4 Q And what, if any, relationship does the bumpers on
5 the vehicle and sort of their intended purpose have
6 with relation to the scratches that you absorbed?

7 A So the bumpers on the side was more of -- this
8 wasn't more of direct on hit with the bumper. It was
9 more of the side scraping of the paint or the bumper.

10 Q Now, the presence of Mr. O'Keefe's DNA on the
11 taillight, is that consistent with a pedestrian
12 collision?

13 A Yes.

14 Q Now, as far as the glass not matching, are you
15 familiar -- are you aware that the lab's actual
16 findings were that the glass on the bumper and the
17 glass on the roadway was not -- was just -- I'm sorry --
18 - not found to be consistent with each other. Is that
19 your understanding, if you know?

20 A I don't know.

21 Q And were you also aware that the lab's finding was
22 that the glass on the bumper was consistent with the
23 glass on the roadway?

24 A I'm not aware what the lab said.

25 Q Now in order to construct your diagram, your

1 testimony I believe was that you had used sort of
2 diagrams in the process of that; is that correct?

3 A Yes.

4 Q And if I could turn back to that 12629B, the
5 mileage from the Techstream data.

6 A Yes.

7 Q The three-point turn that you observed and the
8 24.2 mile per hour straight line for approximately 62
9 feet, how far apart time-wise within that particular
10 triggering event were two incidents?

11 A Eight minutes.

12 Q And as far as any of the other Techstream data
13 that you observed, was there any other triggering event
14 that included a three-point turn?

15 A No.

16 Q Now as far as the defendant's path of travel, is
17 it your understanding that that was obtained from a
18 multitude of different witnesses?

19 A Yes.

20 Q Now with reference to you were asked some
21 questions about the defendant's cell phone as far as
22 GPS locations. Were you aware that the defendant's
23 cell phone wasn't able to be accessed until by law
24 enforcement --

25 MR. JACKSON: Objection.

1 Q -- 2023?

2 THE COURT: Sustained.

3 Q Were you aware that the defendant's cell phone had
4 GPS locations turned off on the defendant's cell phone?

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow that.

7 A I was not aware.

8 Q Now as far as placing the vehicle during that
9 triggering event, 12629B, did you use key cycles to put
10 it back at that location at that time?

11 A No, I didn't.

12 Q What did you use?

13 A I looked at the odometer mileage.

14 Q And why would you look at the odometer mileage
15 over the key cycles?

16 A Because I can physically see the odometer mileage
17 at the vehicle at the time of my inspection.

18 Q And why would -- well, let me ask you this. In
19 your opinion as far as that is concerned sort of
20 backtracking to a specific location, which is more
21 reliable, the odometer or the key cycles?

22 A I would say the odometer mileage.

23 Q And why is that?

24 A Like I said, you can physically see it when you
25 turn the car on, and I know that's the odometer mileage

1 that it's reading on the dashboard.

2 Q And every key cycle, is that necessarily recorded
3 within the Techstream data?

4 A No.

5 Q And why not, sir?

6 A It only records stuff that relates to the
7 triggers.

8 THE COURT: They don't what?

9 THE WITNESS: They only record stuff that is
10 related to the triggers.

11 THE COURT: Okay. Thank you.

12 Q As far as counsel's hypothetical with regard to
13 the key cycles, is it your opinion that that
14 hypothetical is accurate or inaccurate?

15 A Inaccurate.

16 Q And why is that?

17 A Because it would also be -- you also add the
18 odometer mileage onto the key cycle. So those key
19 cycles and odometer mileage are on the same trigger,
20 and plus the data -- the data seems consistent with
21 everything else that's going on with this collision.

22 Q Now, fair to say that you were not outside of 34
23 Fairview Road on January 29, sometime around 12:20 to
24 12:30 a.m.; is that correct?

25 A That is correct.

1 Q And so fair to say that you don't know exactly how
2 Mr. O'Keefe's and/or glass or anything that he's
3 holding interacted with the defendant's vehicle at that
4 time?

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow it. Is that true?

7 A I do not.

8 Q And so based on your training and experience and
9 the number of pedestrian crashes that you've
10 investigated, again, if you could, one last time just
11 describe to the jury how you believe the vehicle
12 interacted with Mr. O'Keefe and why?

13 MR. JACKSON: Objection.

14 THE COURT: Sustained. It's asked and answered.

15 Q With reference to what you've described as far as
16 the interaction between Mr. O'Keefe and the vehicle,
17 why is that your opinion?

18 MR. JACKSON: Objection.

19 THE COURT: I'll allow that.

20 A Based on the evidence from the vehicle, based on
21 the injuries to John O'Keefe, the taillight appears to
22 be broken and its sharp plastic pieces that could've
23 ripped his arm, and also the dent where the scratches
24 above it is consistent with a hand holding a glass and
25 the glass on top smashing on the vehicle and the hand

1 smashing the vehicle. You can see there's a line
2 between scratches and a dent there.

3 MR. LALLY: Thank you. Nothing further.

4 MR. JACKSON: May I have just a moment, Your
5 Honor?

6 THE COURT: Yes.

7 **RECROSS-EXAMINATION**

8 **BY MR. JACKSON:**

9 Q Very briefly. I just want to make sure I clear
10 something up about the key cycles. You're not
11 suggesting that every key cycle in the history of cars
12 is on this page, correct?

13 A That is correct.

14 MR. JACKSON: I'm holding up Exhibit 591, Your
15 Honor.

16 THE COURT: Okay.

17 Q That indicates key cycles that have triggering
18 events, correct?

19 A Yes.

20 Q Triggering events are something that the
21 manufacturer includes. It's basically a list of items
22 that will -- that will be a triggering event, correct?

23 A Yes.

24 Q It's a list of items basically for mechanics to
25 figure out if there's some unusual driving or unusual

1 event with the vehicle, correct?

2 A Yes.

3 Q But the key cycles go in order, they're numerical,
4 one through whatever?

5 A Correct.

6 Q In the hypothetical that I gave you on direct exam
7 -- on cross-examination, would those driving incidents,
8 each one of those, would represent a key cycle,
9 correct?

10 A I don't -- so in your hypothetical, I mean I
11 assumed that it should create a key cycle, but that's
12 -- you can't just say that key cycle is from that
13 because I didn't just use key cycles. I used the
14 odometer mileage on top of it. So you have to have key
15 cycle and odometer.

16 Q Right. Interestingly, though, when you testified
17 on direct examination, you said your analysis, and this
18 was on Friday, before the weekend -- by the way, over
19 the weekend did you watch anything on, I don't know,
20 YouTube or any social media?

21 A No.

22 Q Nothing?

23 A No.

24 Q Did you have any conversations with Mr. Lally
25 about these key cycles and the problems?

1 A No.

2 Q Did you have any conversations with anybody about
3 the issues with the key cycles?

4 A No.

5 Q Did you realize at some point between Friday and
6 today that I was going to probably ask you some
7 questions about key cycles?

8 MR. LALLY: Objection.

9 THE COURT: Did you realize that yourself?

10 A I assumed you were going to ask me loads of
11 information.

12 Q So on Friday you didn't mention that your analysis
13 was based on mileage, did you?

14 MR. LALLY: Objection.

15 THE COURT: Sustained.

16 Q On Friday, did you mention that your analysis was
17 predicated on mileage?

18 MR. LALLY: Objection.

19 THE COURT: I'll see you at sidebar.

20 (Sidebar commences:

21 THE COURT: What's the nature of the objection?

22 MR. LALLY: First of all, yes, he did, but
23 secondly, he's asking a question --

24 THE COURT: First of all what?

25 MR. LALLY: Yes, he did mention that during his

1 testimony on Friday, but he's asking questions about
2 his testimony Friday which is beyond the scope of
3 direct.

4 MR. JACKSON: On redirect, he asked him
5 specifically about key cycles and what he predicated
6 his decision on - key cycles versus mileage. On
7 Friday, he said he based his reconstruction on the key
8 cycles. He mentioned mileage, but he didn't say that
9 he was basing his opinion on mileage. He said he's
10 basing his opinion on key cycles. I think the jurors
11 need to hear that.

12 THE COURT: I'm not going to go back through all
13 of my notes to find an example of what you did. I'll
14 let you have that question. I'll let a very short
15 follow-up by Mr. Lally.

16 MR. JACKSON: Okay.

17 THE COURT: No, that's fine.

18 MR. JACKSON: The witness is just trying to
19 confuse issue. He's trying to run to mileage because
20 he knows he's messed up on key cycles.

21 THE COURT: I don't think he's trying to confuse
22 anybody.

23 MR. JACKSON: Oh, my gosh, well.

24 THE COURT: I think that he is himself
25 (indiscernible).

1 MR. JACKSON: Yeah, okay. Thank you.

2 THE COURT: All right. So that's how we're going
3 to do it this one question, and then Mr. Lally gets one
4 or two questions.
5 end of sidebar.)

6 MR. JACKSON: May I inquire?

7 THE COURT: Yes.

8 Q Trooper Paul, on Friday, you indicated pretty
9 clearly that your analysis was based on the key cycles
10 starting at 1164 when you started your testing and
11 1162, which was the key cycle you claimed on Friday was
12 at 34 Fairview?

13 A It wasn't based on it. That's how I would
14 describe it. I said key cycles. I based it on they
15 were close within proximity to each other, but I've
16 always said it's key cycles and odometer mileage plus
17 all the information within the triggers themselves. So
18 it wasn't just one or the other.

19 Q And you said on Friday that once you started your
20 testing at 1164, it was two cycles earlier that had the
21 triggering events, meaning 1162 that you claimed were
22 at 34 Fairview?

23 A Yes.

24 Q But in the hypothetical, if there were four
25 events, four driving -- four key cycle events between

1 1164 and 1159, it could not have occurred at 1162,
2 correct, 34 Fairview, in my hypothetical?

3 A In your hypothetical if it recorded at key cycle,
4 then your hypothetical is correct.

5 Q Right. And last question, if you got the route of
6 travel incorrect, if your presumption of the route of
7 travel was incorrect on that vehicle in the days
8 earlier, then your mileage would be incorrect also,
9 correct?

10 A Mileage from what? The odometer or from --

11 Q The odometer reading.

12 A The odometer reading is the odometer reading.
13 It's 36.

14 Q My point is your analysis that's based on the
15 odometer reading, thirty-six miles here, twelve miles
16 there, two miles here, five miles there, if you got the
17 route of travel wrong and the route of travel was
18 different, your assumptions about the odometer readings
19 would be incorrect as well, correct?

20 A So what I'm --

21 Q Which means you got the path of travel wrong?

22 A -- I purposefully put down a range in my Google
23 images shown because I couldn't tell you her
24 definitively route of path for every single way, but I
25 know that she's -- it's possibly a possibility that she

1 could travel 36 miles within those locations that she
2 traveled post leaving Fairview Road.

3 Q Or if that mileage was put on at key cycle at
4 1162, then that would mean that would mean that the
5 vehicle would already be in Massachusetts state police
6 custody, right, in Trooper Proctor's custody?

7 MR. LALLY: Objection.

8 THE COURT: So that's beyond the scope.

9 MR. JACKSON: That's all I have.

10 THE COURT: All right. Mr. Lally.

11 MR. LALLY: Just very briefly.

12 **REDIRECT EXAMINATION**

13 **BY MR. LALLY:**

14 Q The range that you came up with for the
15 defendant's path of travel, does that fit with the path
16 of travel the odometer reading putting the defendant's
17 vehicle in the area of 34 Fairview Road when it does
18 the three-point turn and then eight minutes later when
19 it travels 24.2 miles per hour in a straight light in
20 reverse for approximately 62 feet?

21 A Yes.

22 MR. LALLY: Nothing further.

23 THE COURT: All right. You are all set, Trooper.

24 THE WITNESS: Thank you, Your Honor.

25 (End of testimony.)

C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
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TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
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Christine D. Blankenship, December 11, 2024

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